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European Charter for Regional or Minority Languages

APPLICATION OF THE CHARTER IN GERMANY

- A. Report of the Committee of Experts on the Charter**
- B. Recommendation of the Committee of Ministers of the Council of Europe on the application of the Charter by Germany**

The European Charter for Regional or Minority Languages provides for a control mechanism to evaluate how the Charter is applied in a State Party with a view to, where necessary, making Recommendations for improvements in its legislation, policy and practices. For this purpose a Committee of Experts is established in accordance with Article 17 of the Charter. Its principal task is to report to the Committee of Ministers on its evaluation of compliance by a Party with its undertakings, to examine the real situation of the regional or minority languages in the State and, where appropriate, to encourage the Party to gradually reach a higher level of commitment. The Committee of Ministers considers and adopts any recommendation it deems necessary in relation to a given Party, based on suggestions for recommendations from the Committee of Experts.

To facilitate this task, the Committee of Ministers adopted, in accordance with Article 15.1, an outline for the initial periodical report that a Party is required to submit to the Secretary General. The report shall be made public by the State in accordance with Article 15.2. The outline requires the State to give an account of the concrete application of the Charter, the general policy for the languages protected under its Part II and in more precise terms all measures that have been taken in application of the provisions chosen for each language protected under Part III of the Charter. The Committee of Expert's first task is therefore to examine the information contained in the initial periodical report for all the relevant regional or minority languages on the territory of the State concerned.

The Committee shall evaluate the existing legal acts, regulations and real practice applied in each State for its regional or minority languages. It has established its working methods accordingly. The Committee gathers information from the respective authorities and from independent sources within the State, so as to attempt to obtain a just and fair overview of the real language situation. After a preliminary examination of an initial periodical report, the Committee submits, if necessary, a number of questions to each Party to procure supplementary information from the authorities on matters it considers insufficiently developed in the report itself. This written procedure is usually followed up by an "on-the-spot visit" by a delegation of the Committee to the respective State. During this visit the delegation meets bodies and associations whose work is closely related to the use of the relevant languages, and consults the authorities on matters that have been brought to its attention. This information-gathering process is designed to enable the Committee to better evaluate the application of the Charter in the State concerned.

Having concluded this process, the Committee of Experts adopts its own report. This report is submitted to the Committee of Ministers together with suggestions for recommendations that the latter could decide to address to one or more Parties as may be required

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Strasbourg, 5 July 2002

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European Charter for Regional or Minority Languages

A. Report of the Committee of Experts on the application of the Charter

presented to the Committee of Ministers of the Council of Europe
in accordance with Article 16 of the Charter

GERMANY

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Chapter 1. Background information

1.1. The Charter's ratification by the Federal Republic of Germany

1. The Federal Republic of Germany signed the *European Charter for Regional or Minority Languages* (hereafter referred to as the Charter) on 5 November 1992. By the Federal Act (to implement the Charter) of 9 July 1998, the German *Bundestag*, with the consent of the Federal Council (Chamber of the *Länder*), approved the Charter. That Act was promulgated in the Federal Law Gazette on 16 July 1998, and the instrument of ratification was deposited with the Council of Europe on 16 September 1998. The Charter entered into force in Germany on 1 January 1999. Under the Federal Act ratifying the Charter, the latter ranks, in Germany, as a federal law, which takes precedence over subordinate law, including *Land* law, and as a matter of principle (primacy of international law), is to be applied as the more specific law overriding other federal laws.

2. In accordance with Article 15.1, the initial periodical report on the application of the Charter in Germany was due on 1 January 2000. It was presented to the Secretary General of the Council of Europe on 20 November 2000. The German version was published in October 2000 by the Federal Ministry of the Interior, which is the department responsible for the drafting of the State Report. The Report was printed and also included in the Ministry's Internet site. Anybody interested in the document can order it - and extensive use is being made of this offer. At the annual Implementation Conference on the Charter, the *Länder* and the umbrella organizations of the linguistic groups were provided detailed information on the Report and were - and still are - offered the opportunity to order as many copies of the Report as they like for their staff, members and affiliates.

3. The instrument of ratification of the Federal Republic of Germany is set out in Appendix I to this report. This instrument specifies the languages covered by Part III and the paragraphs and sub-paragraphs applicable to each one of them in the respective territories.

1.2. Work of the Committee of Experts

4. After the Committee of Experts had made its preliminary examination of the report, a questionnaire was drawn up and addressed to the German authorities. The Committee organised its "on-the-spot visit" to Germany in October 2001. It met the authorities responsible for and/or concerned with the implementation of the Charter, as well as representatives of the speakers of the relevant languages. It visited the *Land* of Schleswig-Holstein, the *Land* of Brandenburg and the Free State of Saxony. It met several regional and local authorities, as well as representatives from the sectors of the media and education, research and NGOs. It also visited Berlin, where it met the federal authorities and the representatives of other *Länder* concerned by the Charter, as well as representatives of the Roma community and the speakers of Low German. On the basis of the information gathered from the initial periodical report, the questionnaire and the "on-the-spot-visit", the Committee of Experts was better able to prepare its evaluation of the application of the Charter in Germany.

5. The Committee has established a list of general proposals for the preparation of recommendations from the Committee of Ministers to Germany, as provided for in Article 16.4 (Chapter 3.2 of this report). The Committee has furthermore, in the body of the report, made, where necessary, more detailed observations which it encourages the German authorities to take into consideration when developing their policy with regard to regional or minority languages.

6. This report is based on the political and legal situation prevailing when the Charter entered into force in Germany (January 1999), and when Germany presented its initial periodical report to the Council of Europe (November 2000). It is based on the information obtained by the Committee as stated above (para. 4). The report was adopted on 5 July 2002.

1.3. Presentation of the regional or minority language situation in Germany

7. According to the authorities, six minority languages are traditionally spoken in Germany: Danish, Upper Sorbian, Lower Sorbian, North Frisian, Saterland Frisian and the Romany language of the German Sinti and Roma. Low German is ratified as a regional language within the meaning of the Charter.

8. The Committee of experts has requested the German authorities to clarify the status of Yiddish in Germany. According to their answers, about 65 000 persons of Jewish faith live in Germany today, forming a total of 62 communities. Yiddish originated from Middle High German, which was the German standard language in the Middle Ages. During that period, after the emigration and flight of Jews from Germany to the countries of Central and Eastern Europe, it gradually developed into an independent language and culture through the specifically Jewish religious way of life and culture in those countries. There are now in Germany only a few Jews of the older generation who still have a command of Yiddish. The Committee has received no information contradicting this affirmation. Furthermore, no request by the Yiddish-speaking community has been made for protection of Yiddish under the Charter.

9. The Committee considers that the languages mentioned in paragraph 7 are those covered by the Charter.

10. Given the federal structure of the Federal Republic of Germany, the implementation of the obligations assumed under the European Charter for Regional or Minority Languages is primarily the responsibility of the *Länder*. The Federal Republic of Germany has laid down the scope of the Charter's application in Germany in Declarations made by the Federal Government to the Council of Europe in order to ensure the admissibility of a territorially differentiated implementation of the Charter in keeping with the federal structure of Germany.

11. Germany consists of 16 *Länder*. The languages covered by the Charter are traditionally spoken in the following *Länder*:

- Danish: Schleswig-Holstein
- North Frisian: Schleswig Holstein
- Saterland Frisian: Lower Saxony
- Low German: Bremen
Hamburg
Brandenburg
Mecklenburg-Western Pomerania
Lower Saxony
North-Rhine Westphalia
Saxony-Anhalt
Schleswig-Holstein
- Upper Sorbian: Saxony
- Lower Sorbian: Brandenburg
- Romany: the whole territory of the Federal Republic of Germany

1.3.a Danish

12. Danish is traditionally spoken by the Danish minority in the *Land* of Schleswig-Holstein to the south of the German-Danish border. The Danish minority, along with the German majority population, live in the German part of Schleswig in their traditional settlement area, just as the German minority and the Danish majority population do on the Danish side in North Slesvig - *Sønderjylland*. Germans and Danes have been living together in this area for more than a thousand years. Today's border between the two countries was laid down in 1920 on the basis of the results of two plebiscites agreed upon in the Treaty of Versailles and was confirmed after the second world war.

13. The Danish minority population is estimated at some 50 000 persons who live mainly in the Schleswig region in the *Kreise* (or counties) of Nordfriesland and Schleswig-Flensburg, the northern part of the *Kreis* of Rendsburg-Eckernförde, and in the city of Flensburg. The percentage of the members of the Danish minority in relation to the population of the various towns and communities varies greatly, and ranges from local communities where only a small number of families of the minority live, to about 20 per cent in Flensburg and some smaller places.

14. All members of the Danish minority understand Danish, and most of them speak it. In addition, all of them have a good command of German. In rural areas, parts of the Danish minority – and of the majority population - speak the regional Low German language. In the area close to the border, the members of the Danish minority also speak *Sønderjysk*, a South Jutish dialect of Danish.

15. The majority of the members of the Danish minority use the Danish language in the private sphere and within the organizations of the Danish minority. Constant use and promotion of the Danish language provide the basis for all minority-related activities. Of particular importance for proficiency in the Danish language are the Danish private schools, especially for children from mixed marriages.

1.3.b *The Sorbian languages (Upper Sorbian and Lower Sorbian)*

16. The Slavic people of the Sorbs, who have a history going back more than a millennium and a culture of their own, have mostly lived within a setting of German statehood. In the Middle Ages, the Sorbian language was spoken over a much more extensive area than today. Sorbian is part of the West Slavonic family of languages. From the various dialects of colloquial Sorbian, two standard languages developed: Upper Sorbian (the Sorbian of Upper Lusatia), and Lower Sorbian (the Sorbian of Lower Lusatia; also called Wendish). Today, of the area in which Sorbian is spoken covers Upper Lusatia in the Northeast of the Free State of Saxony, and Lower Lusatia in the Southeast of the *Land* of Brandenburg. The Sorbs living in Lower Lusatia are, until this day, also known as Wends.

17. It is not known exactly how many persons consider themselves Sorbs but the estimated number is about 60 000, of whom two-thirds live in Saxony, and one third in Brandenburg. In some villages of the settlement area, the majority of inhabitants are Sorbs; in some local communities in the *Kreis* of Kamenz, they account for up to 90 per cent of the population. They make up about 10 per cent of the population of the overall settlement area, while in the towns they account for less than 2 per cent. Approximately 20 000 Sorbs still have a command of Sorbian in both its spoken and written form..

18. Use of the Sorbian language in private depends, to a large extent, on the Sorbs themselves, especially on whether the language is passed on to their children and grandchildren. Such traditional teaching and learning of Sorbian is more frequent in the central settlements where there is a large share, or even majority, of Sorbs, than in larger places and towns where they constitute a dispersed minority. In the case of the Sorbs, the existence of many mixed marriages has an influence on the language spoken within the family and on the extent to which Sorbian is passed on to the children, and thus attendance at Sorbian schools is of particular importance to these children.

19. Use of the Sorbian language in public is rendered difficult by the fact that the German-Sorbian settlement area is not generally bilingual and that, as a rule, only the Sorbs have a command of both languages. There is a tendency to use German before public bodies. Therefore, apart from a number of exceptions, greater use is made of German than of the Sorbian language in public. Since the re-unification, the difficult economic situation in Saxony and Brandenburg has contributed to the migration of Sorbs to other *Länder* and to the large cities. The dispersion of the community of its speakers therefore constitutes a new major threat to the maintenance and the development of the language.

20. Article 35 of the Treaty on the Establishment of German Unity, Article 6 of the Constitution of the Free State of Saxony and Article 25 of the Constitution of Brandenburg establish a very good legal basis to further develop laws, rules and policies for the promotion of Upper and Lower Sorbian. In particular, Article 14 of the Protocol to the German Unification Treaty states as follows:

“The Federal Republic of Germany and the German Democratic Republic declare in connection with Article 35 of the Treaty:

1. There shall be freedom of commitment to the distinctive Sorbian way of life and to Sorbian culture.
2. The maintenance and further development of Sorbian culture and traditions shall be guaranteed.
3. The Sorbian people and their organizations shall be free to cultivate and preserve the Sorbian language in public life.
4. The distribution of competence between the Federation and the *Länder* as set out in the Basic Law shall remain unaffected.”

21. It is also important to note that Sorbian organisations themselves, especially *Domowina*, play a substantial role in protecting and promoting the Sorbian language and culture with official support and recognition.

22. Owing to the demographic situation and financial constraints, the general picture is not as favourable as might be expected from the above-mentioned factors. Maintaining a substantial part of the existing infrastructure has become uncertain.

1.3.c *The Frisian languages (North Frisian and Saterland Frisian)*

23. Frisian, as an autonomous and ancestral language, which descended from the North Sea Germanic division of the West Germanic subfamily, distinctly differs from Netherlandic (Dutch and Flemish) and Low German and, in terms of historical linguistics, is closely related to Old English. It has evolved in three subgroups: West Frisian, East Frisian, and North Frisian. West Frisian is spoken in the province of Friesland in the Netherlands. East Frisian is native to Ostfriesland in Lower Saxony. These two regions form the historical (geographical) centre of the Frisians. North Frisian is spoken in the county of North Friesland in Schleswig-Holstein.

24. As early as 1500, the East Frisians replaced the Frisian language by Low German as the language to be used for drafting legal documents. By 1800, most of them had relinquished their ancestral Frisian language, which survived on one of the North Sea Islands until the turn of the 20th century..

25. Only in the Saterland in the Oldenburg region, near the border with the Netherlands, do about 2 000 persons still use Saterland Frisian, which forms part of the Old East Frisian subgroup of languages. About twice as many people understand Saterland Frisian. Despite many Low German loan words, Saterland Frisian has preserved its linguistic independence. However, over the years the area where Saterland Frisian was used became smaller and smaller until the language was nearly extinct. Today, the use of Saterland Frisian by the Saterland Frisians is gradually increasing, as school children are taking a greater interest in learning this language, and children and the grandparent generation have started to communicate in Saterland Frisian again.

26. After the Frisians, had also settled north of the central Frisian area about 1000 years ago, their language was influenced by Old Danish with regard to a number of linguistic characteristics and developed into what we now know as North Frisian. North Frisian consists of two groups of dialects with nine local varieties: six of these (so-called Continental North Frisian) are spoken along the west coast of Schleswig-Holstein (including the holms, or *Halligen* islands), and three of them (so-called Insular North Frisian) on the offshore islands of Sylt, Föhr, Amrum and Helgoland. Despite the linguistic diversity brought about by the subdivision into dialects, the linguistic communality of North Frisian prevails. Of the total number of nine North Frisian local idioms, three - which are spoken by less than 150 persons - are in great danger of becoming extinct. The other six local idioms are not only used orally but also exist in written form. Their orthography is generally based on uniform rules. The first book in the North Frisian language was published in 1809. Since then, a large amount of Frisian-language literature has been published, covering several hundreds of books and, in addition, several thousands of literary items in a variety of publications. This ensures that the Frisian language also meets the requirements expected of a modern means of communication.

27. The number of those who, on account of their origin and their sense of personal identity, consider themselves North Frisians is estimated at as many as 50 000 to 60 000 persons, representing one-third of the population of this region. Of these, some 10 000 persons still speak North Frisian; another 20 000 persons understand the language.

28. The North Frisian language is still spoken in private relations, especially among the Frisians living on the islands and holms. This is less so on the mainland. In mixed-language marriages, German frequently prevails.

1.3.d *The Romany language of the German Sinti and Roma*

29. The Romany spoken by the German Sinti and Roma is the language of the members of these communities who traditionally live in Germany. Romany is spoken by an estimated 60 000 persons of Sinti origin and 10 000 persons of German Roma origin. It is an autonomous language, deriving from Sanskrit, which is spoken in a number of different variants.

30. The majority of German Sinti and Roma nowadays live in the capitals of the "old *Länder*" of Germany (the 11 federal States that belonged to the FRG within its territorial boundaries up to German unification), including Berlin and its environs, and in the conurbations of the Greater Hamburg area, the Rhine/Ruhr region with Düsseldorf and Cologne at its centre, and the Rhine/Main and Rhine/Neckar conurbations. In some cases, significant numbers of German Sinti and Roma also live in regions of geographically close, smaller towns. Thus, German Sinti and Roma populations are to be found, for instance, in medium-sized and small towns of Ostfriesland, Northern Hesse, the Palatinate, Baden and Bavaria. Thus, there is no single language area confined to a single *Land* for the Romany language traditionally spoken in Germany. Rather, the language is spoken in most of the *Länder*.

1.3.e *The Low German language*

31. Low German (*Niederdeutsch* or *Plattdeutsch*) is the ancestral language of the German North. As far as historical knowledge reaches back, people in Northern Germany have always used this language; its form and function, however, have changed over the years. Until the end of the late Middle Ages, the German North used only one other language besides the scholars' Latin: the Low German language, which met all communication requirements. Whatever had to be said or written in everyday dealings or in the fields of trade, law, politics, religion, literature and culture had to, and could be expressed in the respective variations of Low German. An expansive linguistic development went hand in hand with the historical processes: while Low German, in its oldest period, had only been the language of the Germanic tribal association of the Saxons - confined to a relatively small settlement area - the area in which it was spoken later on expanded in territorial and functional terms.

32. In the 14th/15th Centuries, Low German was the prevailing linguistic medium for the entire economic and cultural area of the Hanseatic League. The latter constituted - not least in the form of, and through, the Low German language - one cultural area which, while not of a uniform nature, formed a coherent entity. The era of Low German unilingualism ended rather abruptly in the 16th Century. It was followed by a period - continuing up to this day - of the competing High German and Low German languages existing side by side. The role of Low German was confined to being the generally less esteemed secondary language. From then on, this language was of a socially lesser functional value than High German; it was rated lower and, consequently, its use declined more and more.

33. The progressive decline of Low German took place in two stages. At the turn of the 16th/17th Centuries, Low German lost its written-language status to High German. After the chancelleries of princes and towns, the educated middle classes also started to use High German for written communication. While the majority of the North German population continued to use Low German for oral communication, its losses in terms of function and prestige had such lasting effects that, over time, one social class after another adopted High German. Finally the old language of the region survived mainly only as the everyday idiom of the "common folk", especially among the rural population.

34. In the course of the evolution of modern society, the scope for the development and survival of Low German was increasingly curtailed. The social processes of the 19th and 20th Centuries threatened its existence even as a fringe vernacular. Industrialization and urbanization not only increasingly limited the scope for the use of Low German which by now had been reduced to a local idiom, but ultimately also resulted in the decline and dissolution of the local language community where the regional vernacular had its actual sphere of life. The bureaucratisation of community life as well as the democratisation of education brought about by the general school and education system promoted and definitively consolidated the transition of the majority of the population to High German as the community language.

35. Despite these developments, a minority of committed citizens has, over the past 200 years, worked for the cultivation and promotion of the Low German language. As early as the 17th and 18th Centuries, a number of citizens spoke up, who saw the decline of the language as a severe loss of North German specificity and countered this decline with literature written in Low German. Ever since efforts were made, at the end of the Age of Enlightenment and at the beginning of Romanticism, to rediscover the 'people' with their vernacular language and poetry and with their customs and ways of life, the sense of an increasing loss of identity has given rise to the notion that Low German, as the ancestral vernacular of the North, was of particular value in, and for, society. Nevertheless, the Low German language and the culture defined and shaped by it have had, until this day, only a fringe status in public and cultural life and in education. So far, therefore, preservation of the indigenous regional language has been achieved primarily by private initiatives. The achievements of such initiatives in terms of cultivating and fostering the language and culture have been significant:

- they have recreated an independent Low German literature;
- they have established Low German in other spheres of cultural life as well: in theatre, in church and in all modern media, so that an autonomous Low German cultural life has come into existence again;
- they have to this end created an institutional infrastructure of clubs, societies and associations, which in part also engage in supraregional work, theatres and publishing houses, and writers' unions, teachers' and clergymen's associations, together with publication bodies.

36. The success of these activities is also due, for a major part, to the increasing assistance, including funding, provided by the *Länder*, local governments and other institutions.

37. Nowadays Low German is traditionally spoken in eight *Länder* of the Federal Republic of Germany. The Low German language area covers the entire territory of Bremen, Hamburg, Mecklenburg-Western Pomerania, Lower Saxony and Schleswig-Holstein, and parts of Brandenburg, North Rhine/Westphalia and Saxony-Anhalt. In the various regions of this language area, local or regional variations of Low German, which differ to a greater or lesser degree, are spoken - but generally as a secondary language (High German standard language remains the first language) and usually only for private purposes. The extent to which Low German idioms are used varies from one region to another. Thus, Low German has, for a long time, been incomparably more alive in the coastal regions than further inland.

38. The number of people in Northern Germany who have a command of, and are still using, any of the variations of Low German is not known. According to the only informative study available, a representative survey of 1984, which only covers the Low German region in the "old" *Länder* ("West Germany") of the Federal Republic of Germany,

- an average of 56 % of the respondents said that they could speak Low German (very well, well, or a little),
- while 43 % stated that they could not speak it at all;
- 89 % of the respondents said that they were at least able to understand Low German,
- while only 11 % stated that they could not understand it.

39. For the three "new" *Länder* (i.e. Mecklenburg-Western Pomerania, Brandenburg and Saxony-Anhalt) where Low German is spoken, no directly comparable data are available; but the language situation in those *Länder* is assumed to be quite similar. On this basis, the overall number of those who claim to have a more or less good knowledge of the Low German language is estimated to amount to some eight million individuals.

40. Notwithstanding the significant private commitment of those working in a large number of clubs and associations, amateur theatre groups, writers' associations and circles of poets, and despite considerable governmental promotional measures, the number of speakers of Low German continues to dwindle, mainly for the reason that this language, on account of the low esteem in which it is held and because of its lack of practical functional value, is no longer passed on by the respective older generation to the younger people.

1.4. General legal framework

41. The general legal framework governing the status and the use of languages in Germany consists of the following:

- a. the Basic Law of the Federal Republic of Germany (23 May 1949),
- b. the Federal Act to implement the European Charter (16 July 1998);
- c. the Bonn Declaration of 1955 (bilateral treaty between Germany and Denmark concerning the Danish minority);
- d. the Unification treaty of 1990 (in particular, article 35, concerning the Sorbian ethnic community);
- e. the Constitutions of the various *Länder* and in particular, the Constitutions of Brandenburg, Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt and Schleswig-Holstein;
- f. various Federal Acts (Administrative procedures, Organisation of the Courts, Civil Status, etc) ;
- g. several State treaties (in particular, the Broadcasting State treaties);
- h. various *Länder* Acts concerning education, media, administrative procedure, courts, etc. or the status of a given minority (the Act on the Sorbs' Rights in the Free State of Saxony and the Act on the Specification of Rights of the Sorbs in the *Land* of Brandenburg).

1.5. Particular issues arising in the evaluation of the application of the Charter in Germany

42. The particular situation of Germany as a federal State and the logic of the distribution of competences have an important impact on the way the language policy and the legislation are adopted and implemented in Germany. Both the instrument of ratification and the initial periodical report reflect the specificity of the situation. That also explains the complexity of the initial periodical report as well as of the present report adopted by the Committee.

43. The initial periodical report presented by Germany to the Council of Europe is divided into three sections. The first section (A) provides a detailed presentation of the general situation of the regional or minority languages traditionally spoken in Germany. The second section (B) indicates the measures taken by the German authorities to apply Part II of the Charter (Article 7). The last section of the report (C) indicates the measures taken both at the federal and at the *Länder* levels to comply with the undertakings of Part III applicable to Danish (in Schleswig-Holstein), Sorbian (in Saxony and Brandenburg), Frisian (in Schleswig-Holstein and in Lower Saxony), Romany (in those *Länder* having specified provisions of Part III applicable to this Part-II-language) and to Low German (in the eight *Länder* concerned).

44. The structure of the initial periodical report corresponds to the specificity of the instrument of ratification presented by Germany. According to the latter, the scope of the Charter remains as follows:

- a. languages covered by Part III (Articles 8 to 14) of the Charter are:
 - Danish in Schleswig-Holstein;
 - North Frisian in Schleswig-Holstein,
 - Saterland Frisian in Lower Saxony,
 - Low German in Bremen, Hamburg, Mecklenburg-Western Pomerania, Lower Saxony and Schleswig-Holstein;
 - Upper Sorbian in Saxony;
 - Lower Sorbian in Brandenburg.
- b. languages covered by Part II (Article 7) of the Charter are, in addition to those covered by Part III,
 - Low German in Brandenburg, North Rhine-Westphalia and Saxony-Anhalt;
 - Romany in the whole territory of the Federal Republic of Germany.

Additionally, for Romany and Low German, the instrument of ratification identifies some territories where these languages also benefit from the protection foreseen in some provisions of Part III:

- for Romany in Baden-Württemberg, Berlin, Hamburg, Hessen, North-Rhine-Westphalia, Lower Saxony, Rhineland-Palatinate, Schleswig-Holstein;
- for Low German in Brandenburg, North-Rhine Westphalia and Saxony-Anhalt.

In the respective territories mentioned, both languages remain nevertheless only covered by Part II, as the minimum of 35 paragraphs or sub-paragraphs required by Article 2.2 of the Charter has not been reached.

45. In the present report, the Committee of Experts has preferred not to follow the structure of the initial periodical report to avoid possible confusion as regards the languages covered by Part II and Part III. When evaluating compliance with Article 7 (Part II) in respect of Romany and Low German, the Committee has nevertheless taken into consideration the additional information provided by the authorities regarding the efforts made to comply with some of the provisions of Part III. At this stage, the information concerning Romany has been insufficient to enter into an in-depth analysis of the Part III voluntary commitments regarding Romany.

46. When evaluating the existing legal framework applicable to languages in Germany, the Committee of Experts has observed that the lack of specific legislation or regulations in some areas (administration, judiciary, media, etc...) hampers the effective implementation of some provisions of the Charter. The Federal Act to implement the Charter ranks as a federal law in Germany and is to be applied as the more specific law overriding other federal laws. The German authorities affirm that the self-executing nature of the treaty allows it to be implemented directly and does not necessitate any intermediate legal or administrative measure. However, while acknowledging the important efforts deployed by the German authorities to make the Charter known, the Committee still considers that, due to the structure and content of the Charter, its full implementation can only be guaranteed if specific legislation or administrative measures are adopted at all relevant levels and in the different fields covered by the Charter, especially administration and the judiciary.

The Committee encourages the authorities to adopt specific legislation and administrative measures in the various fields covered by the Charter, especially those of the administration and the judiciary.

47. Language policy in Germany follows the principle of territoriality. The speakers of a language can in principle only claim certain public use of their language within the territory where their language is traditionally spoken. Following this logic, the instrument of ratification precisely indicates the territories (the *Länder* and the areas within the *Länder*) in which each single language is considered traditionally used, with one exception: the case of Romany. The territorial base of Romany is the whole territory of Germany. Historically, the language can be assigned to a considerable number of small regions in Germany where Roma and Sinti were for centuries, or still are, traditionally present. The race policy of the Nazi regime - entailing stigmatisation and discrimination, persecution and the genocide inflicted also on the Sinti and Roma - has destroyed the social structures of these language communities. Since many survivors of Nazi persecution settled in central conurbations after the end of the war, the speech community of their historical areas has changed.

48. The high degree of dispersal of users of the Romany language must not, in the opinion of the German authorities, result in any impairment of the objective scope of protection of the language if the causes of such dispersal were generated, or at least significantly influenced, by earlier government action. In this regard, the Government underlines that there is a particular obligation incumbent on the State to reduce the negative impact of history on the Roma language and culture and to foster their development.

49. The Committee is aware of the fact that several *Länder* are considering the inclusion of Romany under the protection of Part III of the Charter. The Committee has also been informed that there are differences of opinion among the Romany speakers themselves : whereas a major organisation (the Central Council of German Sinti and Roma) supports the full protection of Romany by the Charter (and its Part III), another important organisation (Sinti Allianz Germany) advocates the withdrawal of the undertakings promoting the use of Romany in public life. Other voices representing the Sinti and Roma *Länder* associations also ask for the withdrawal of the undertakings relating to the field of education. Their main argument is that education in Romany has always been and should remain the sole responsibility of the community. According to them, access to the Romany language should be limited to the members of this minority.

Chapter 2. The Committee's evaluation in respect of Part II and Part III of the Charter

2.1 The evaluation in respect of Part II of the Charter

50. Part II of the Charter sets out a number of general objectives and principles that a Party is obliged to apply to all the regional or minority languages on its territory. The following paragraphs examine compliance by Germany of Article 7 and place a particular emphasis on those languages only covered by Part II of the Charter (Low German on the territory of Brandenburg, North Rhine/Westphalia and Saxony-Anhalt and Romany on the whole of the territory of Germany).

Article 7 – Objectives and principles

“ In respect of regional or minority languages, within the territories in which such languages are used and according to the situation of each language, the Parties shall base their policies, legislation and practice on the following objectives and principles:

“a. the recognition of the regional or minority languages as an expression of cultural wealth;”

51. Compliance by the German system of law with this provision is documented by the notification of the two declarations on the scope of application of the Charter and by the extensive measures taken for its implementation.

“b. the respect of the geographical area of each regional or minority language in order to ensure that existing or new administrative divisions do not constitute an obstacle to the promotion of the regional or minority language in question;”

52. As stated earlier, Low German's speech area comprises territories of eight *Länder*. Because of the devolution of competences to the *Länder*, there is a danger that the *Länder* are acting in isolation. In the view of the Committee, measures should be taken to ensure co-operation between the *Länder* with the aim of strengthening the impact of the measures taken to promote the use of this language.

53. Romany is seen to be spoken in most of the *Länder* within the Federal Republic of Germany. Consequently, existing or new administrative divisions have little influence on the promotion of Romany.

54. The dissolution of the administrative division of the municipality of Horno, where the Lower Sorbian language has a strong presence, in order to allow lignite mining to occur, suggests that respect for the geographical area of minority languages may take a secondary place to other interests. The Committee takes the view that appropriate and strong measures should be taken to compensate for the adverse impact on the Lower Sorbian language. The Committee also emphasises the importance, in planning decisions of this kind, of ensuring that adequate provision is made for weighing the interests of regional or minority languages protection against economic considerations.

In the case of Horno, the Committee strongly encourages the authorities to take all appropriate measures aimed at remedying the adverse effects on the Lower Sorbian language.

“c. the need for resolute action to promote regional or minority languages in order to safeguard them;”

55. In conformity with the federal structure of the Federal Republic of Germany, responsibility for the implementation of measures to promote and preserve the languages protected by the Charter lies primarily with the *Länder*. The Constitutions of five *Länder* of the Federal Republic of Germany contain provisions relating to national minorities and ethnic groups, or to national and ethnic minorities. In part, these provisions also directly relate to the language(s) spoken by the latter. While in the case of legislation the objectives and principles are present, in the field of policy and practice this varies considerably from *Land* to *Land*.

56. The *Land* of Schleswig-Holstein is the *Land* with the highest number of regional or minority languages (Danish, North Frisian, Low German and Romany) and can therefore be quoted as an example. Serious efforts are made by the *Land* authorities to raise public awareness of the value of these languages and the interest of protecting and promoting them. The role of the Minister-President's Commissioner for Minorities is of the utmost importance, as this institution has very much contributed to the launching of a series of projects concerning the use of the different languages (such as the “Minority languages-friendly municipalities”, launched during the European Year of Languages). Brochures, information seminars and other events have resulted in increased co-operation among these four language groups and favourable public opinion towards them.

57. With the exception of *Land* Mecklenburg-Western Pomerania, where Low German enjoys Part III protection and promotion, no other *Land* Constitution contains a provision devoted to Low German. However, a wide variety of resolute measures exist to safeguard Low German, especially in the field of culture.

58. As for the promotion of Romany, resolute action has been taken by several *Länder* in the legislative field through the inclusion of various Part III provisions in the German ratification instruments, especially in the field of education. However, the implementation of these commitments is rendered difficult by the conflicting views prevailing among Romany-speakers on the public use of Romany.

“d. the facilitation and/or encouragement of the use of regional or minority languages, in speech and writing, in public and private life;”

59. German is the official language of administration and justice. No distinction is made between the treatment of regional or minority languages on the one hand, and extra-territorial languages on the other. Languages traditionally used in Germany are therefore all treated as being “foreign”, except for Low German which traditionally has been considered as a form of German. Aside from a few initiatives described in the next section of this Chapter, so far the promotion of the use of regional or minority languages in public life seems to be concentrated in the fields of education and culture. The German authorities often refer to the fact that speakers of the languages covered by the Charter can also speak German, thus justifying the lack of encouragement of their use in dealings with the administrative and judicial authorities. As regards the media field, the authorities claim not to be allowed to “interfere” and do not, therefore, take any action likely to improve the presence of regional or minority languages in this field. The Committee is not convinced by this argument. Freedom of expression in the media is not compromised by facilitating or promoting use of regional or minority languages in the media. By reason of their relative economic and political weakness, minority languages are at an inherent disadvantage when it comes to opportunities to be seen and heard in the media. It is necessary and appropriate for this imbalance to be redressed by positive measures. Such measures are needed both in traditional and new media. Furthermore, Article 7, paragraph 2 expressly envisages the adoption of special measures in favour of regional and minority languages aimed at reducing the disadvantages of regional and minority languages, and thus at promoting equality between the users of these languages and the rest of the population.

60. According to the information available to the Committee, there is today no use of Romany in public life. Due to the experiences of the past, there is reluctance among the speakers to push for a promotion of Romany within the judiciary, the administration or the media. The Sinti and Roma communities are afraid of the negative impact that interference from the outside might have on their culture. It is the wish of certain organisations representing the speakers of Romany that their language remain accessible only to the members of their own community.

“e. the maintenance and development of links, in the fields covered by this Charter, between groups using a regional or minority language and other groups in the State employing a language used in identical or similar form, as well as the establishment of cultural relations with other groups in the State using different language;”

61. The existence of some major –or umbrella- organisations grouping respectively the speakers of Danish (Sydslesvigsk Forening), Sorbian (Domowina), Frisian (Nordfriesischer Verein and Interfräsche Rädj) and Romany (Central Council of German Sinti and Roma and Sinti Allianz Deutschland) very much facilitate the development of links between groups interested in the promotion of the languages. The Federal Union of European Nationalities (FUEN) and the German EBLUL Committee participate in the implementation of the Charter and the European Framework Convention for the Protection of National Minorities. Through the regular Conferences organised by the federal authorities, all the above-mentioned organisations meet, exchange experiences and even join efforts to obtain further support from the authorities. Concerning Low German, however, a comparable degree of internal organisation is lacking. The lack of an umbrella organisation and inter-Land co-operation severely hampers the promotion of Low German.

62. At the *Länder* level, the Committee welcomes the efforts made by the authorities of Schleswig-Holstein to provide for a forum where the representatives of the languages spoken within the *Land* can co-operate. In particular, the establishment of the Minister-President’s Commissioner for Minorities is seen as a useful measure that might also be applied in other *Länder* and at federal level.

“f. the provision of appropriate forms and means for the teaching and study of regional or minority languages at all appropriate stages;”

63. Teaching and study of the languages covered by Part III is examined in detail in the next section of this Chapter.

64. As far as Low German is concerned, in those *Länder* not covered by Part III Low German is used in school education mainly in primary schools, although activity groups and optional courses in Low German also exist in the upper grades. Lectures on local history and culture include Low German. Reading competitions take place in elementary and secondary education and teaching materials are available. Furthermore, Low German is taught in adult education centres. Although Low German is not an official element of teacher-training, courses are organised.

65. The Central Council of German Sinti and Roma and some other associations of Sinti and Roma take the view that Romany should neither be taught nor learnt by non-Sinti and non-Roma within the public education system. According to the Initial Report, a majority of the German Sinti and Roma are, in fact, against *all* inclusion of Romany in the state-run education system and emphasise their right to cultivate their language and pass it on to future generations within the family and family clans only. Several *Länder* have declared that they are prepared to make available pre-school, primary, secondary, and adult education of or in Romany, if the speakers of the language put wishes to this effect to the *Länder*. So far, the support for Romany within the field of education has been limited to the pre-school level. The Committee received information about some pre-schools in Kiel where a Romany-speaking mediator is available to facilitate the integration of Romany-speaking children. According to the representatives of the Sinti and Roma in Schleswig-Holstein, the institution of the mediator is seen as a positive measure, but it was emphasised that education in Romany should remain the responsibility of the Sinti and Roma communities themselves. The problem is that the continuity of such activities cannot be ensured on a voluntary basis only and there is a need for more financial assistance. The *Land* of Schleswig-Holstein already provides some funding for this purpose.

66. The lack of interest in the promotion of the various languages in the past has to some extent resulted in the existence of a generation gap in the use of regional or minority languages, apart from Danish and Romany. There is a tendency among today's young parents not to speak Frisian, Low German or Sorbian with their children. The recent campaigns to promote Frisian, Low German and Sorbian have raised the awareness of these parents, who now are ready to send their children to schools offering these languages. However, the generation gap will soon make it difficult to find trained teachers with a sufficient knowledge of those languages. The position is further complicated by the fact that linguistic competence in regional or minority languages is not consistently considered as a relevant factor when appointing or deploying teachers. Sater Frisian is the most endangered of these languages and in spite of the fact that mother tongue instruction in Sater Frisian is provided to a certain degree in the schools of Saterland, Germany has not chosen any obligations pertaining to primary school education. In the initial report it is stated that school children are now taking a greater interest in learning this language and that children and the grandparent generation have started to communicate in Sater Frisian again. Primary school is of course a very important domain if a language is to be protected and developed and the Committee would encourage the German government to consider the possibility to extend the scope of its ratification of the Charter in order to cover also primary schools in respect of Sater Frisian.

“g. the provision of facilities enabling non-speakers of a regional or minority language living in the area where it is used to learn it if they so desire;”

67. As developed in the next section, any person who so wishes can have access to courses of Danish, Sorbian and Frisian in the territories where they are traditionally spoken. Various forms of education in Low German are available to those who do not consider themselves to be Low German native speakers.

68. At present this provision is not applied to the Romany language. The frequently expressed wish by certain organisations representing members of this language group is that outsiders should not be taught this language.

“h. the promotion of study and research on regional or minority languages at universities or equivalent institutions;”

69. Research and study of the languages covered by Part III are evaluated in the next section of this report.

70. Universities and colleges carry out study and research of Low German in North Rhine/Westphalia and in Saxony-Anhalt, as well as in Brandenburg (not covered by Part III of the Charter).

71. Several *Länder* have stated that they are prepared to encourage and/or allow university level education in or of Romany, should a demand for it emerge. So far, there has been no such demand among the speakers of Romany.

72. The Committee considers the promotion of study and research to be central in the context of promoting regional or minority languages. Study and research enable proper assessment to be made of the needs of minority language speakers in order to develop the language and to plan for the provision of education and other services. The Committee notes with concern the apparent decline in study and research at a time when there is resurgence in linguistic consciousness. The Committee expresses the hope that competent authorities will take advantage of the present growth of linguistic consciousness and increase the availability of study and research of the languages.

“i. the promotion of appropriate types of transnational exchanges, in the fields covered by this Charter, for regional or minority languages used in identical or similar form in two or more States.”

73. The Danish minority benefits from the extensive efforts made to develop transnational exchanges with the neighbouring Denmark. Some associations of Frisian speakers and universities have developed contacts with their counterparts in The Netherlands. The Committee has been made aware of transfrontier co-operation through inter-regional activities in the case of the Low German speaking community in Lower Saxony and the northern provinces of the Netherlands.

74. The Central Council of the German Sinti and Roma has participated in transnational exchanges with the Kulturverein Österreichischer Roma in Vienna. Both sides keep up continuous exchanges of information and share each other's publications. This co-operation also extends to the fields of culture, education, and vocational training.

75. All regional or minority language groups in Germany participate in the international minority co-operation within the Federal Union of European Nationalities (FUEN) and the German EBLUL Committee.

"Paragraph 2

The Parties undertake to eliminate, if they have not yet done so, any unjustified distinction, exclusion, restriction or preference relating to the use of a regional or minority language and intended to discourage or endanger the maintenance or development of it. The adoption of special measures in favour of regional or minority languages aimed at promoting equality between the users of these languages and the rest of the population or which take due account of their specific conditions is not considered to be an act of discrimination against the users of more widely-used languages."

76. According to the Initial Report, the principle of equality before the law and the ban on discrimination are enshrined in the Basic Law of the Federal Republic of Germany and in the Constitutions of the *Länder*, as well as in various subject specific laws. They comply with paragraph 2 nation-wide for all regional or minority languages in Germany.

"Paragraph 3

The Parties undertake to promote, by appropriate measures, mutual understanding between all the linguistic groups of the country and in particular the inclusion of respect, understanding and tolerance in relation to regional or minority languages among the objectives of education and training provided within their countries and encouragement of the mass media to pursue the same objective."

77. Germany has taken a wide range of measures to promote mutual understanding. In particular, according to the Initial Report, education in tolerance and solidarity is part of the educational mandate of schools providing general education and of political education in Germany, and ranks high in these fields. In addition, the report states that many non-governmental organisations and private initiatives are dedicated to this goal and to the practical implementation of the intercultural dialogue. In the areas of education, culture and the media, the aforementioned principles are embodied in laws and implementing statutes. These laws and regulations are implemented in practice by means of various measures. Such measures are aimed at education in tolerance and at promoting understanding for other cultures and languages as well as acceptance of people with a different language and culture who live in the neighbourhood, the local community and society at large. Of the language groups covered by the Charter, the Sinti and Roma are those who have been especially targeted by xenophobic attacks. Because of this and on account of the historical events during the Nazi regime, the history and the culture of the German Sinti and Roma, which is reflected in the Romany language, is included in school education throughout the Federal Republic.

78. According to the Initial Periodical Report, the broadcasting programming principles embodied in the various *Land* Broadcasting Acts and State Treaties explicitly lay down that "...programmes should help to reduce xenophobia and to achieve protection and promotion of minorities". There are monitoring bodies in place although the Committee has no evidence as to how the interests of the regional or minority languages are specifically catered for in this context or how these programming principles are carried out in practice to the benefit of the regional or minority languages.

“Paragraph 4

In determining their policy with regard to regional or minority languages, the Parties shall take into consideration the needs and wishes expressed by the groups which use such languages. They are encouraged to establish bodies, if necessary, for the purpose of advising the authorities on all matters pertaining to regional or minority languages.”

79. As stated before, the competent authorities have regular contacts with the major organisations representing the interests of the speakers of Danish, Frisian and Sorbian.

80. Germany has taken into consideration the needs and the wishes of the organisations of the users of Low German in its language policy, namely through the input of associations established at the *Land* level. That also results from its inclusion amongst the languages protected and promoted by the Charter. As previously noted, however, the lack of an umbrella organisation makes it difficult for the federal authorities to maintain a dialogue with the speakers of this language.

81. The interests of the German Sinti and Roma are represented by various associations and *Land* Associations. The Central Council of German Sinti and Roma is the umbrella organisation of nine *Land* Associations and a number of regional or local associations and institutions. The Central Council and the Documentation and Cultural Centre of German Sinti and Roma have since 1991 been supported by publicly funded institutional promotion. A number of organisations not affiliated to the Central Council and elders of family clans of German Sinti have recently formed the Sinti Allianz Deutschland e.V. The Committee has been informed that these organisations are consulted by the Federal authorities on matters dealing with these languages. At present, there are no governmental bodies or institutions specifically dealing with the protection and promotion of the Romany language. This is in line with the wishes of this language group.

“Paragraph 5

The Parties undertake to apply, mutatis mutandis, the principles listed in paragraphs 1 to 4 above to non-territorial languages. However, as far as these languages are concerned, the nature and scope of the measures to be taken to give effect to this Charter shall be determined in a flexible manner, bearing in mind the needs and wishes, and respecting the traditions and characteristics, of the groups which use the languages concerned.”

82. As stated in paragraphs 43 and 44 above, the Romany language is regarded as a non-territorial language although the German instrument of ratification identifies some territories where this language also benefits from the protection foreseen in some provisions of Part III. In considering the position of Romany vis-à-vis paragraphs 1 to 4 of article 7, the Committee has kept in mind that those principles should be applied *mutatis mutandis*.

2.2. Part III commitments regarding Low German in areas where Low German is covered by Part II

83. According to the instrument of ratification, certain areas where Low German is spoken are not included amongst the undertakings entered into under Part III. These areas are comprised in the territories of the following *Länder*: Brandenburg, Saxony-Anhalt and North Rhine-Westphalia. However, in respect of Low German these *Länder* have voluntarily entered into a number of specific undertakings provided for under Part III. The Committee has decided to deal separately with these commitments and to assess their fulfillment.

a. In *Land* Brandenburg

Article 8 – Education

With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

- a i to make available pre-school education in the relevant regional or minority languages; or
- ii to make available a substantial part of pre-school education in the relevant regional or minority languages; or
- iii to apply one of the measures provided for under i and ii above at least to those pupils whose families so request and whose number is considered sufficient; or
- iv if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under i to iii above;**

84. According to the information provided by the Government, the responsibility for pre-school education in Brandenburg *Land* lies with the local authorities. The *Land* Government takes a positive approach to the use of Low German in pre-school education. However, no statistics are available on the extent to which Low German is used. The Committee would welcome further information on this in the next periodical report.

- b i to make available primary education in the relevant regional or minority languages; or
- ii to make available a substantial part of primary education in the relevant regional or minority languages; or
- iii to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or
- iv to apply one of the measures provided for under i to iii above at least to those pupils whose families so request and whose number is considered sufficient;**

85. The German Government has informed the Committee that Low German is not taught as a regular classroom subject in Brandenburg. However, it is possible to institute activity groups where interested pupils can study the Low German language and culture. Such activity groups have been established at three schools in the northern region of the *Land*. Also in this region local history and geography lessons include elements concerning the Low German language and culture. The Committee considers that what has been reported by the German government does not fulfil this undertaking. The Committee would therefore welcome further information on the number of pupils or families who have requested secondary education in Low German and on which measures are being taken by the German authorities to live up to the standard of this undertaking. Accordingly, the Committee is not in a position to conclude that this undertaking is fulfilled.

- c i to make available secondary education in the relevant regional or minority languages; or
- ii to make available a substantial part of secondary education in the relevant regional or minority languages; or
- iii to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or
- iv to apply one of the measures provided for under i to iii above at least to those pupils who, or where appropriate whose families, so wish in a number considered sufficient;**

86. See para. (b iv) above. The Committee considers that what has been reported by the German government does not fulfil this undertaking. The Committee would therefore welcome further information on the number of pupils or families who have requested secondary education in Low German and on which measures are being taken by the German authorities to live up to the standard of this undertaking. Accordingly, the Committee is not in a position to conclude that this undertaking is fulfilled.

f iii i if the public authorities have no direct competence in the field of adult education, to favour and/or encourage the offering of such languages as subjects of adult and continuing education;

87. According to the information received by the Committee, the Brandenburg part of the Low German speech area has four *Kreisvolkshochschulen*, i.e. the *Kreis* Adult Education Centres of Uckermark, Prignitz, Ostprignitz-Ruppin and Oberhavel. The Initial Report stresses a willingness to include Low German language and cultural heritage in the programme of these centres. However, in some instances courses were not held due to insufficient demand. Attempts will nevertheless be made in the future to offer such courses. The *Land* pays part of the personnel expenses and the cost of materials in connection with the adult education centres. In addition, other public funds are available to subsidise courses in Low German. The Committee considers this undertaking fulfilled.

g to make arrangements to ensure the teaching of the history and the culture which is reflected by the regional or minority language;

88. According to the information given by the German Government, it follows from the Brandenburg Schools Act that the teaching in the schools must reflect the Low German culture. The Committee considers this undertaking fulfilled.

Article 9 – Judicial authorities

2 The Parties undertake:

a not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language; or

89. The validity of legal documents is not denied on the grounds that they have been drafted in Low German. The Committee considers that this undertaking is fulfilled.

Article 10 – Administrative authorities and public services

2 In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:

b the possibility for users of regional or minority languages to submit oral or written applications in these languages;

90. According to the initial report, it is not known whether any applications have been submitted to the authorities in Low German. According to the Government, however, no case has ever been reported where a practical solution was not found, in particular through the assistance by a member of the staff speaking Low German..

91. The Committee considers that the information above is not sufficient to assess whether and to what extent this provision is actually applied in practice. The Committee considers that in order to make it clear to the speakers of Low German that they may submit applications in this language and to ensure that the administration is aware of this, it would be advisable that corresponding instructions (or, when necessary, formal legal rules) are issued to the authorities and made public. The Committee considers that this undertaking is only formally fulfilled.

- 3 With regard to public services provided by the administrative authorities or other persons acting on their behalf, the Parties undertake, within the territory in which regional or minority languages are used, in accordance with the situation of each language and as far as this is reasonably possible:**
- a to ensure that the regional or minority languages are used in the provision of the service; or**
 - b to allow users of regional or minority languages to submit a request and receive a reply in these languages; or**
 - c to allow users of regional or minority languages to submit a request in these languages.**

92. The German Government interprets this provision in the sense that there must be no regulation preventing the use of Low German for the submission of such requests. The Committee, however, considers that in order to make it clear to the speakers of Low German that they may submit requests in this language and to ensure that the public services concerned are aware of this, it would be advisable that corresponding instructions (or, where necessary, formal legal rules) are issued to the authorities and made public. The Committee considers that this undertaking is only formally fulfilled.

Article 11 – Media

- 1 The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:**
- b i to encourage and/or facilitate the creation of at least one radio station in the regional or minority languages; or**
 - ii to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;**

93. The Government has informed the Committee that in the *Land* of Brandenburg radio and television programmes of *Norddeutscher Rundfunk* (NDR) of Bremen can be received in the Low German speech area and that these broadcasts are partly taken over by *Ostdeutscher Rundfunk Brandenburg* (ORB) in its own programme schedule. The Committee considers that a commendable effort is made in the public sector. However, taking into account the nature of the option chosen by the Government, the Committee does not have any information as to measures of encouragement for the broadcasting of radio programmes in Low German by private stations. The Committee is therefore not in a position to conclude that this undertaking is fulfilled.

- c i to encourage and/or facilitate the creation of at least one television channel in the regional or minority languages; or**
- ii to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;**

94. In this regard too, the Government refers to the co-operation with Bremen. However, according to the information provided by the German Government (see para. 270 below) the only programme in Low German broadcast by the public television is the nativity story at Christmas. There is no information about television programmes in Low German in private broadcasting and the Committee is aware of no information as to measures of encouragement for the broadcasting of television programmes in Low German by private stations. Therefore, the Committee considers that this obligation is not fulfilled.

- d to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;**

95. The Government refers to legislative measures, in particular Section 5, para. 2, of the *Act on Ostdeutscher Rundfunk Brandenburg* (ORB Act). However, the Committee would welcome further information on which practical measures have been taken to give effect to this undertaking.

- e i to encourage and/or facilitate the creation and/or maintenance of at least one newspaper in the regional or minority languages; or**
- ii to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;**

96. The Committee has been informed that the most important daily newspapers of the region regularly publish articles in Low German. Furthermore, every two weeks a newspaper read in the North-East of the *Land* publishes one page with Low German items. However, the Committee would welcome further information on how the authorities are encouraging or facilitating the publication of newspapers articles in Low German on a regular basis. The Committee is therefore not in a position to conclude that this undertaking is fulfilled.

- f i to cover the additional costs of those media which use regional or minority languages, wherever the law provides for financial assistance in general for the media; or**
- ii to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;**

97. According to the information provided by the Government, audio-visual works in Low German are eligible for financial assistance and that will remain unchanged even with the new film promotion directives. The Committee considers this undertaking formally fulfilled and would welcome examples of cases where financial assistance has been provided to works in Low German.

- 2 The Parties undertake to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language, and not to oppose the retransmission of radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the freedom of expression and free circulation of information in the written press in a language used in identical or similar form to a regional or minority language. The exercise of the above-mentioned freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.**

98. Free reception of radio and television broadcasts from neighbouring countries is guaranteed by the Basic Law. Therefore, the Committee concludes that this undertaking is fulfilled.

Article 12 – Cultural activities and facilities

- 1 With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including inter alia the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:**
- a to encourage types of expression and initiative specific to regional or minority languages and foster the different means of access to works produced in these languages;**

99. According to the information provided by the Government, promotion of Low German culture is project-oriented. The Government mentions in particular a number of printing-cost subsidies for publications in Low German. However, the Committee has not received any information on how the authorities foster the different means of access to works produced in Low German. This undertaking is therefore partly fulfilled.

f to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;

100. According to the Government, legislation in this field is considered unnecessary and participation of the users of Low German is already ensured within the institutions concerned. However, the Committee has not been made aware of any measures of encouragement and is therefore not in a position to conclude that this undertaking is fulfilled.

g to encourage and/or facilitate the creation of a body or bodies responsible for collecting, keeping a copy of and presenting or publishing works produced in the regional or minority languages;

101. There are no libraries or archives dedicated exclusively to the collection of writings in Low German, which are therefore collected in municipal archives and libraries. Furthermore, publishers are required to offer at least one copy of every new published book to the State and *Land* library and that also covers books in Low German. The Committee considers this undertaking fulfilled but would welcome further information on the approximate size of the collections of writings in Low German held in the above-mentioned libraries and on how regularly the State and *Land* library actually makes use of the offers of newly published books in Low German.

b. In *Land* Saxony-Anhalt

Article 8 – Education

1 With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

- a i to make available pre-school education in the relevant regional or minority languages; or**
- ii to make available a substantial part of pre-school education in the relevant regional or minority languages; or**
- iii to apply one of the measures provided for under i and ii above at least to those pupils whose families so request and whose number is considered sufficient; or**
- iv if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under i to iii above;***

102. According to the information provided by the Government, the responsibility for pre-school education in Saxony-Anhalt lies with the local authorities. The *Land* Government takes a positive approach to the use of Low German in pre-school education. Pursuant to the Decision of 19 November 1991 adopted by the *Landtag*, the *Land* Government is obliged to promote Low German, among others, in pre-school education. The Directive on the Allocations of Grants explicitly lays down the promotion of German in pre-school facilities. However, no statistics are available on the extent to which Low German is used. The Committee would welcome further information in the context of the next periodical report.

- b i to make available primary education in the relevant regional or minority languages;**
or
- ii to make available a substantial part of primary education in the relevant regional or minority languages; or**

iii to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or

iv to apply one of the measures provided for under i to iii above at least to those pupils whose families so request and whose number is considered sufficient;

103. The German Government has informed the Committee that the Framework Curriculum recommends the use of Low German in literature and texts, but teachers have no legal obligation to follow these instructions. Brochures and a CD have been developed to help the teaching of Low German. It is possible to institute activity groups, optional subject-courses and activities outside the school where interested pupils can study the Low German language and culture. Promotional programmes have been launched in order to facilitate activities outside the school and dialect camps are funded. Reading competitions also take place in Low German. The Committee, however, would welcome further information on the number of pupils or families who have requested primary education in Low German.

c i to make available secondary education in the relevant regional or minority languages; or

ii to make available a substantial part of secondary education in the relevant regional or minority languages; or

iii to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or

iv to apply one of the measures provided for under i to iii above at least to those pupils who, or where appropriate whose families, so wish in a number considered sufficient;

104. The Committee considers that what has been reported by the German government does not fulfil this undertaking. The Committee would therefore welcome further information on the number of pupils or families who have requested secondary education in Low German, the findings of the survey conducted by the *Arbeitsstelle Niederdeutsch* and which measures are being taken by the German authorities to live up to the standard of this undertaking. Accordingly, the Committee is not in a position to conclude that this undertaking is fulfilled.

g to make arrangements to ensure the teaching of the history and the culture which is reflected by the regional or minority language;

105. According to the information given by the German Government, it follows from the Saxony-Anhalt Framework Curricula that the teaching of History and German should reflect the Low German culture. The Committee considers this undertaking fulfilled.

h to provide the basic and further training of the teachers required to implement those of paragraphs a to g accepted by the Party;

106. According to the information provided by the Government, training and continuing education of teachers in Saxony-Anhalt are ensured primarily on the one hand, by the *Arbeitsstelle Niederdeutsch* (Workshop for Low German) of the *Germanistisches Institut* of Otto von Guericke University in Magdeburg and on the other hand, through follow-up and further training activities offered on a regular basis by the *Landesinstitut für Lehrerfortbildung Sachsen-Anhalt* (LISA – Saxony-Anhalt Land Institute for Follow-up Training of Teachers). The Committee considers this undertaking fulfilled.

Article 9 – Judicial authorities

2 The Parties undertake:

a not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language; or

107. The validity of legal documents is not denied on the grounds that they have been drafted in Low German. The Committee considers that this undertaking is fulfilled.

Article 11 – Media

- 1 The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:**
 - b i to encourage and/or facilitate the creation of at least one radio station in the regional or minority languages; or**
 - ii to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;*
 - c i to encourage and/or facilitate the creation of at least one television channel in the regional or minority languages; or**
 - ii to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;*

108. According to the initial report, both public and private radio and TV broadcasting corporations regularly air programmes in Low German and report on Low German events. Furthermore, in the northern part of Saxony-Anhalt, radio and TV broadcasts of *Norddeutscher Rundfunk* (NRD) can be received in the Low German speech area and some Broadcasts of *Ostdeutscher Rundfunk Brandenburg* (ORB) are taken over by *Mitteldeutscher Rundfunk* (mdr) in its own programme schedule. Finally, Open Channels and local broadcasting stations already include Low German in their programmes depending on local demand. The Committee considers these undertakings fulfilled.

- d to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;**

109. The Government refers to the possibility to grant subsidies within the funding scheme by the *Land* Government aimed at promoting Low German (to a maximum amount of 70 per cent of the expenses eligible for allocation of funds). However, the information provided does not allow to establish to which extent the mentioned possibilities of funding are actually used for the production and distribution of audio and audiovisual works in Low German. The Committee is therefore not in a position to conclude that this undertaking is fulfilled.

- e i to encourage and/or facilitate the creation and/or maintenance of at least one newspaper in the regional or minority languages; or**
 - ii to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;*

110. The Government has informed the Committee that the week-end edition of the *Volksstimme* contains at least one page entitled “Platt Spräken” (“Speaking Low German”). In addition, Low German texts (e.g. short stories, legends, poems, etc.) appear in the local/regional section or in the feature section of both the *Volksstimme* and other local or regional newspapers. The Committee would welcome further information on how the authorities are encouraging or facilitating the publication of newspapers articles in Low German on a regular basis. The Committee is therefore not in a position to conclude that this undertaking is fulfilled.

- 2** *The Parties undertake to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language, and not to oppose the retransmission of radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the freedom of expression and free circulation of information in the written press in a language used in identical or similar form to a regional or minority language. The exercise of the above-mentioned freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*

111. Free reception of radio and television broadcasts from neighbouring countries is guaranteed by the Basic Law. Therefore, the Committee concludes that this undertaking is fulfilled.

Article 12 – Cultural activities and facilities

- 1** *With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including inter alia the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:*
- a** *to encourage types of expression and initiative specific to regional or minority languages and foster the different means of access to works produced in these languages;*

112. The Government has provided the Committee with detailed information about a great variety of projects and research activities, many of which are subsidized by the *Land*, aimed at encouraging types of expression and initiative specific to Low German and at fostering the different means of access to works produced in Low German. The Committee considers this undertaking fulfilled.

- f** *to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;*

113. According to the information made available to the Committee, direct participation in the provision of facilities and planning of cultural activities is ensured through the Head of the Low German Section of the *Landesheimatbund Sachsen-Anhalt e.V.* (Saxony-Anhalt *Land* Union for Local and Regional Traditionals) and the *Arbeitsstelle Niederdeutsch* (Workshop of Low German) of Otto von Guericke University in Magdeburg. Both institutions are fully involved in a wide range of activities concerning Low German. Furthermore, the *Arbeitskreis "Ostfälisches Platt"* e.V. (Working Panel "Low German of Ostfalen") is automatically a member of the Executive Board of the *Landesheimatbund Sachsen-Anhalt e.V.* The Committee considers this undertaking fulfilled.

- g** *to encourage and/or facilitate the creation of a body or bodies responsible for collecting, keeping a copy of and presenting or publishing works produced in the regional or minority languages;*

114. According to the Government, the establishment of institutions subsidized by the *Land*, such as the ones mentioned under para. 113 above, ensures that works in Low German are collected and presented to the public. However, the Committee considers that the information provided is not sufficient to take a position on this undertaking.

- h** *if necessary, to create and/or promote and finance translation and terminological research services, particularly with a view to maintaining and developing appropriate administrative, commercial, economic, social, technical or legal terminology in each regional or minority language.*

115. The Government maintains that if required, the establishments and institutions listed in para. 113 above provide for the translation and terminological research services as part of their on-going *Land*-funded activities. However, the Committee considers that the information provided is not sufficient to take a position on this undertaking and would welcome practical examples.

c. In *Land* North Rhine/Westphalia

Article 8 – Education

1 With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

e i to make available university and other higher education in regional or minority languages; or

ii to provide facilities for the study of these languages as university and higher education subjects; or

iii *if, by reason of the role of the State in relation to higher education institutions, subparagraphs i and ii cannot be applied, to encourage and/or allow the provision of university or other forms of higher education in regional or minority languages or of facilities for the study of these languages as university or higher education subjects;*

116. According to the information provided by the Government, Münster University, Bielefeld University and Ruhr University in Bochum offer a large variety of courses in and on Low German. The Committee considers this undertaking fulfilled.

g to make arrangements to ensure the teaching of the history and the culture which is reflected by the regional or minority language;

117. The Guidelines for the Lower Secondary Grades of Gymnasien (grammar schools) call upon schools to develop a school programme which *inter alia* will cover the “cultural traditions of the local environment and home region”. The curricula for the secondary grades and for the primary education level of schools of other types provide for inclusion of an adequate proportion of regional languages in German lessons. The Committee considers this undertaking fulfilled.

h to provide the basic and further training of the teachers required to implement those of paragraphs a to g accepted by the Party;

118. The circular decree on Low German in school, issued by the Münster *Bezirk* Government, contains guidance on the inclusion of regional language culture in the curricula. In addition, the Münster *Bezirk* Government offers follow-up training conferences on linguistic theory and practice. The Committee considers this undertaking fulfilled.

2 With regard to education and in respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage or provide teaching in or of the regional or minority language at all the appropriate stages of education.

119. The Government has informed the Committee that instruction in Low German is also allowed in *Land* regions other than those where Low German is spoken. However, in the absence of any further information the Committee is not in a position to express a view on the fulfilment of this undertaking.

Article 9 – Judicial authorities

1 The Parties undertake, in respect of those judicial districts in which the number of residents using the regional or minority languages justifies the measures specified below, according to the situation of each of these languages and on condition that the use of the facilities afforded by the present paragraph is not considered by the judge to hamper the proper administration of justice:

b in civil proceedings:

i to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or

ii to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; and/or

iii to allow documents and evidence to be produced in the regional or minority languages,

if necessary by the use of interpreters and translations;

c in proceedings before courts concerning administrative matters:

i to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or

ii to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; and/or

iii to allow documents and evidence to be produced in the regional or minority languages,

if necessary by the use of interpreters and translations;

120. The codes of judicial procedures provide that legal documents shall be submitted in the original. If the court does not understand the language in which a given legal document is drafted, it may, at its complete discretion, order a translation to be produced (Section 142 (3) of the Code of Civil Procedure). On the basis of a general reference to the Code of Civil Procedure, the other codes of procedure contain the same rule. The costs incurred for translation become part of the litigation costs. The Committee considers these undertakings fulfilled.

2 The Parties undertake:

a not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language; or

121. The validity of legal documents is not denied on the grounds that they have been drafted in Low German. The Committee considers that this undertaking is fulfilled.

Article 11 – Media

1 The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

d to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;

122. According to the information provided by the Government, the *Landschaftsverband* (regional local authority) *Westfalen-Lippe* subsidizes the production costs of sound recordings regarding Low German subjects. The production and dissemination of audiovisual works in Low German are also encouraged in the same way. The Committee considers this undertaking fulfilled but it would welcome further information on the practical impact of the implementation of this provision.

2 The Parties undertake to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language, and not to oppose the retransmission of radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the freedom of expression and free circulation of information in the written press in a language used in identical or similar form to a regional or minority language. The exercise of the above-mentioned freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

123. Free reception of radio and television broadcasts from neighbouring countries is guaranteed by the Basic Law. Therefore, the Committee concludes that this undertaking is fulfilled.

Article 12 – Cultural activities and facilities

1 With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including *inter alia* the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:

a to encourage types of expression and initiative specific to regional or minority languages and foster the different means of access to works produced in these languages;

124. According to the information provided by the Government, the *Landschaftsverband* (regional local authority) *Westfalen-Lippe* is composed of six commissions for studies covering the history, geography and political system of a region and has the sole task of carrying out research on the history and geography of Westphalia, publishing the findings and holding conferences. One of the commissions covers research on the history of the Westphalian language, including archiving of Low German material and registration of the Westphalian dialects, local place-names and proverbs. This commission publishes one journal (“The Low German Word. Articles on Low German Philology”) and two series (“Low German Studies” and “Westphalian Contributions to Low German Philology”). Ear-marked funds of the budget of the *Landschaftsverband Westfalen-Lippe* are employed for the promotion of Low German writings and language cultivation and a part is allocated to a Low German literary society. The Committee considers this undertaking fulfilled.

d to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;

125. The German Government has informed the Committee that the *Landschaftsverband Westfalen-Lippe* is a co-provider of the Westphalia and Lippe Local/Regional Traditions Associations which also support the cultivation of Low German in cultural areas. However, the Committee considers that the information provided is not sufficient to conclude that this undertaking is fulfilled.

e to promote measures to ensure that the bodies responsible for organising or supporting cultural activities have at their disposal staff who have a full command of the regional or minority language concerned, as well as of the language(s) of the rest of the population;

126. The Government has informed the Committee that the activities referred to under para. 125 above promote measures in order to ensure that the bodies responsible for organizing cultural activities also have Low German-speaking staff at their disposal. The Committee considers that the information provided is not specific enough to conclude that the undertaking is fulfilled.

f to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;

127. In this regard too the Government refers to the activities described under para. 125 above. In the Committee's view such information is not specific enough to conclude that the undertaking is fulfilled.

g to encourage and/or facilitate the creation of a body or bodies responsible for collecting, keeping a copy of and presenting or publishing works produced in the regional or minority languages;

128. The Government has informed the Committee that one of the priority tasks of the commission referred to under para. 124 above is archival recording of Low German linguistic material and the registration of Westphalian dialects, local place-names and proverbs. The Committee notes that this commission also publishes one journal and two series (see para. 124 above). However, the Committee would welcome further information on whether this commission also collects and keeps copies of works in Low German and presents and publishes works produced in Low German. The Committee considers this undertaking partly fulfilled.

h if necessary, to create and/or promote and finance translation and terminological research services, particularly with a view to maintaining and developing appropriate administrative, commercial, economic, social, technical or legal terminology in each regional or minority language.

129. The Government has informed the Committee that the tasks of the commission referred to above under paras. 124 and 128 include terminological research services. The Committee would welcome further information on the output of such services and considers that the information provided is not sufficient to conclude that the undertaking is fulfilled.

2 In respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage and/or provide appropriate cultural activities and facilities in accordance with the preceding paragraph.

130. According to the initial report, under the existing system of law cultural activities in North Rhine-Westphalia are admitted also in territorial areas other than those where Low German is traditionally used. However, the Committee considers that the information provided is not sufficient to conclude that the undertaking is fulfilled.

Article 13 – Economic and social life

1 With regard to economic and social activities, the Parties undertake, within the whole country:

a to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations;

131. The Committee has not received any information indicating the existence of legislation which prohibits or limits the use of the minority language and considers this obligation fulfilled.

c to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;

132. The Committee has received no information which enables it to judge whether or not this obligation is fulfilled.

d to facilitate and/or encourage the use of regional or minority languages by means other than those specified in the above sub-paragraphs.

133. No specific information concerning North Rhine-Westphalia has been provided in this respect. Therefore, the Committee is not in a position to conclude that this undertaking is fulfilled.

2.3 The evaluation in respect of Part III of the Charter

2.3.1 Danish in the Danish Language area in Schleswig-Holstein

Article 8 – Education

1 With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

- a i to make available pre-school education in the relevant regional or minority languages; or**
- ii to make available a substantial part of pre-school education in the relevant regional or minority languages; or**
- iii to apply one of the measures provided for under i and ii above at least to those pupils whose families so request and whose number is considered sufficient; or**
- iv if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under i to iii above;**

134. Pre-school education in Danish is organised by Dansk Skoleforening for Sydslesvig, a private organisation funded by the State which operates 58 nursery schools and day nurseries providing pre-school activities for some 1 800 children. In addition to that, a number of German nursery schools offer Danish as part of their activities. The Committee therefore considers that this undertaking is fulfilled.

- “b i to make available primary education in the relevant regional or minority languages; or**
- ii to make available a substantial part of primary education in the relevant regional or minority languages; or**

iii to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or

iv to apply one of the measures provided for under i to iii above at least to those pupils whose families so request and whose number is considered sufficient;”

135. Primary education in Danish is offered in 47 Danish schools run by the Dansk Skoleforening for Sydslesvig. These schools are formally private but function in the same manner as state schools and receive from the *Land* the same amount per pupil as the “German” schools. In addition, publicly maintained schools of all types in Schleswig-Holstein offer Danish as a foreign language. The Committee was informed that the cost per pupil is higher in the Danish schools, especially in rural areas where the number of pupils per class is lower, and the announced reduction of the budget will therefore seriously affect the otherwise well-established network of Danish schools. Although there seems to be no legal entitlement, the present system seems to meet the demands of the users of Danish. The Committee therefore considers that this obligation is at present fulfilled.

“c i to make available secondary education in the relevant regional or minority languages; or

ii to make available a substantial part of secondary education in the relevant regional or minority languages; or

iii to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or

iv to apply one of the measures provided for under i to iii above at least to those pupils who, or where appropriate whose families, so wish in a number considered sufficient;”

136. The school system run by the Dansk Skoleforening for Sydslesvig comprises secondary schools of all types (Hauptschulen, Realschulen, one Gesamtschule and one Gymnasium). Apart from the subject of German, the medium of instruction is generally Danish. Final examinations from these schools are recognised in both Germany and Denmark. In addition to that, many publicly maintained secondary schools offer Danish as a foreign language. Danish is also offered by some schools situated outside the traditional Danish area. Although there seems to be no legal entitlement, the system seems to meet the demands of the users of Danish. The Committee therefore considers that this obligation is fulfilled.

d iii to provide, within technical and vocational education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or

137. At part-time vocational schools, Danish is offered as one of the foreign languages as part of general education courses. At the specialised Gymnasium, Danish is taught as an optional foreign language. The Committee considers that this provision seems to be fulfilled.

e ii to provide facilities for the study of these languages as university and higher education subjects;

138. Danish is offered as a field of study within Nordic Philology at Kiel University and as part of teacher training at Flensburg University. The Committee considers that this undertaking is fulfilled.

f ii to offer such languages as subjects of adult and continuing education; or

iii if the public authorities have no direct competence in the field of adult education, to favour and/or encourage the offering of such languages as subjects of adult and continuing education;

139. Danish language courses are offered by the adult education centres of Schleswig-Holstein and by Jarplund Højskole in South Schleswig, a privately run but publicly funded institution. In 1997, 486 Danish language courses were held at 99 adult education centres in Schleswig-Holstein. Among the Danish minority, 287 adult education courses in Danish were attended in 1998 by 2 952 participants in 39 places in the Schleswig region. The Committee considers that this obligation is fulfilled.

g to make arrangements to ensure the teaching of the history and the culture which is reflected by the regional or minority language;

140. The curricula for primary and lower secondary education in Schleswig-Holstein provide for teaching about minorities, for example about the history of Danes in the region, their language and their specific culture. The Committee considers that this undertaking is fulfilled.

h to provide the basic and further training of the teachers required to implement those of paragraphs a to g accepted by the Party;

141. The teachers of the private schools of the Danish minority are trained either in Germany or in Denmark. In addition to the teacher training in Flensburg University, training is also provided by Danish minority institutions in Germany or Danish institutions in Denmark, following the Bonn/Copenhagen Declarations of 1955 on trans-frontier promotion of minorities on the basis of the reciprocity principle. In order to ensure recruitment of teachers belonging to the Danish minority who are able to teach all subjects included in the curriculum, Section 5, para. 3 of the Federal Educational Grants Act grants members of the Danish minority unrestricted subsidised educational advancement for attending a training institution located in Denmark if such training cannot be received in Germany. The Committee considers that this undertaking is fulfilled.

i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.

142. The Education Offices of the Kreise/kreisfreie Städte (counties/county towns) are responsible for supervising all the measures taken in primary schools, secondary modern schools and Realschulen. The Gymnasien, comprehensive schools and vocational schools are supervised by the Ministry for Education, Science, Research and Cultural Affairs. Legal supervision of the schools of the Danish minority also lies with this Ministry. According to the information gathered by the Committee, there is no body specifically entrusted with the monitoring of the measures taken and progress achieved as mentioned in paragraph i. Moreover, the existing general supervisory bodies do not draw up any periodical reports which are made public. The Committee considers that this undertaking is not fulfilled.

The Committee encourages the authorities to improve and better coordinate the supervision of the measures taken and progress achieved in the field of teaching and to take the necessary steps to provide for the drafting and publication of periodical reports.

2 With regard to education and in respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage or provide teaching in or of the regional or minority language at all the appropriate stages of education.

143. Courses of Danish are offered by schools in Kiel and in a number of other places in the Holstein region which is outside the traditional Danish language area. The Committee considers this undertaking fulfilled.

Article 9 – Judicial authorities

1 *The Parties undertake, in respect of those judicial districts in which the number of residents using the regional or minority languages justifies the measures specified below, according to the situation of each of these languages and on condition that the use of the facilities afforded by the present paragraph is not considered by the judge to hamper the proper administration of justice:*

b *in civil proceedings:*

iii *to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;*

144. The codes of judicial procedures provide that legal documents shall be submitted in the original. If the court does not understand the language in which a given legal document is drafted, it may, at its complete discretion, order a translation to be produced (Section 142 (3) of the Code of Civil Procedure). On the basis of a general reference to the Code of Civil Procedure, the other codes of procedure contain the same rule. Documents and evidence drafted in Danish are allowed. The costs incurred for translation become part of the litigation costs, the only exception being the social court, where payment is never required. The Committee considers this undertaking to be fulfilled.

c *in proceedings before courts concerning administrative matters:*

iii *to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;*

145. Documents and evidence drafted in Danish in administrative proceedings are allowed. German procedural law does not distinguish between documents drafted in German and those drawn up in any other language. As a general rule, the loser of the case pays for the translation, the only exception being the social court, where payment is never required. If the court hearing is attended by persons who do not know the German language, an interpreter must be called in. The Committee considers this provision to be fulfilled.

2 *The Parties undertake:*

a *not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language;*

146. The validity of legal documents is not denied on the grounds that they have been drafted in Danish (see paras. 144 and 145 above). The Committee considers this obligation to be fulfilled.

Article 10 – Administrative authorities and public services

1 *Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:*

a **v** *to ensure that users of regional or minority languages may validly submit a document in these languages;*

147. According to Section 82a, para 2, of the *Land Administration Act*, the authorities may admit the submission of applications, petitions, records, deeds or other documents in Danish. There seems, however, to be no awareness of the existence of this legal entitlement or of this provision of the Charter on the part of the Danish speakers or in the administration. The *Land Administration Act*, furthermore, provides for a general possibility to submit documents in a “foreign language”, that is, in a language other than German. In the Initial Report it is mentioned that use of this possibility is made for example by land survey offices and by the *Land Statistical Office*. However, the Committee has been informed that the use of the languages within the administration is very limited and that few practical measures have been introduced to improve the situation. A promotional measure worth mentioning in this connection is that various administrations within the *Land* have encouraged their employees to put signs on their doors announcing their command of minority languages, for example Danish.

148. The majority of the Danish community is bilingual and has never been encouraged to use Danish in public matters. The fact that the existing provisions allowing for the submission of documents in a “foreign language” also apply to the traditional regional or minority languages reflects a view prevailing among the authorities that these languages are just foreign languages as opposed to German. The question of who will support the costs generated by the use of a minority language is also left to the discretion of the administration. Although there is a legal right to submit documents in Danish, the Committee must therefore conclude that the undertaking is only formally fulfilled.

The Committee encourages the authorities to take the necessary measures in order to ensure that Danish can be used in practice in public matters as a minority language. In this regard, the Committee also encourages the authorities to provide for the necessary financial arrangements.

4 ***With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:***

c ***compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed in the territory in which that language is used.***

149. According to the Initial Report, wishes regarding such an appointment at the *Land Government* level will be examined and the scope for complying with the request will be determined. The Committee has been made aware of a wish among the Danish community that serious measures be taken to increase the number of administrative staff with a command of Danish.

150. The Committee has no reason to believe that there is a practice aimed at discouraging the appointment of public service employees having a command of Danish in the area concerned. However, the Committee has not received any information on a positive practice or a structural approach with regard to this undertaking. Therefore, the information provided does not make it possible to conclude that this undertaking is fulfilled. The Committee nevertheless wishes to draw the attention of the German authorities to the fact that the Danish community would like serious measures be taken to increase the number of administrative staff with a command of Danish.

5 ***The Parties undertake to allow the use or adoption of family names in the regional or minority languages, at the request of those concerned.***

151. The Committee has been informed that under German law persons may assume the minority-language version of their names by making a pertinent declaration before the Registrar. The Committee considers this undertaking fulfilled.

Article 11 – Media

1 The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

b ii to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;

152. The Committee has been informed that Radio Schleswig-Holstein disseminates short news-programmes in Danish on weekdays in the Schleswig region, and that, based on the Broadcasting Act, the programming principles for private broadcasting state that “programmes shall help to ... achieve protection and promotion of minorities”. There is, however, no information as to the practical effects of the programming principles, and the Committee has received complaints from users of Danish that there are practically no radio programmes in Danish which are made and broadcast in the region. Since the Committee has received no information as to whether Radio Schleswig-Holstein is public or private, the Committee is at present not in a position to conclude that the undertaking is fulfilled.

c ii to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;

153. Some television programmes are transmitted in Danish on public service broadcasting. However, the Committee has received insufficient information to be able to conclude that the undertaking is fulfilled with regard to private television programmes.

The Committee encourages the authorities to take positive measures aimed at promoting the regular broadcasting of television programmes in Danish.

d to encourage and/or facilitate the production and distribution of audio and audio-visual works in the regional or minority languages;

154. The legal basis relevant for this provision is the *Land* Broadcasting Act of 13 October 1999, Section 24, para. 3, Section 53, para. 2, and Section 73, para. 2. Financial support is given, especially within the audio-visual sector to non-profit-making cultural organisations and special funds are given for the promotion of commissioned productions and co-productions in cinema, television and sound-broadcasting which are made by producers who are native to, or resident in, Schleswig-Holstein. However, the origin or place of residence of the producers does not necessarily have any connection with the language used in the productions. It is also mentioned in the Initial Report that it is left to the Danish minority to decide on pertinent measures and to implement them by using the funds available for cultural promotion by the *Land* and following the principle of self-government.

155. The Committee observes that there is a general scheme for financial support for audiovisual productions, but there are no specific provisions for productions in Danish. Nor has the Committee received any information about productions in Danish which have been supported through the general scheme.

156. The Committee has therefore concluded that this obligation is not fulfilled.

e ii to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;

157. There is one bilingual German-Danish newspaper available for the Danish minority. The Committee has been informed that the situation is difficult because this newspaper is relatively expensive and not widely read by the Danish-speakers. The Committee has been informed that the German authorities indirectly support written media through the financial assistance provided to the Danish organisations. The Committee therefore considers this undertaking to be fulfilled.

f ii to apply existing measures for financial assistance also to audio-visual productions in the regional or minority languages;

158. Funding for audiovisual productions in Danish may be provided via the funds generally available for non-profit-making cultural organisations, or via the funds reserved for the promotion of commissioned productions and co-productions in cinema, television and sound-broadcasting which are made by producers native to, or resident in, Schleswig-Holstein. However, as mentioned earlier, there is no indication that the scheme is used to promote productions in Danish. The Committee considers this undertaking formally fulfilled and would welcome examples of cases where financial assistance has been provided to works in Danish.

2 The Parties undertake to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language, and not to oppose the retransmission of radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the freedom of expression and free circulation of information in the written press in a language used in identical or similar form to a regional or minority language. The exercise of the above-mentioned freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

159. In the area of the Danish minority in the Schleswig region of the *Land* there are good possibilities of receiving radio and television broadcasts from neighbouring Denmark. The Committee therefore considers that this obligation is fulfilled.

Article 12 – Cultural activities and facilities

1 With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including inter alia the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:

c to foster access in regional or minority languages to works produced in other languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;

160. The institutions of the Danish minority, such as *Sydslesvigsk Forening* (The Association for Southern Schleswig) and the *Dansk Centralbibliotek* (The Danish Central Library), receive funds provided by the *Land* of Schleswig-Holstein for translation, dubbing, post-synchronisation and subtitling into, or in, the Danish language. Thus the Committee considers this undertaking fulfilled.

d to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;

161. In the Initial Report it is stated that promotional funds from the *Land* Government help the institutions of the Danish minority to ensure that the knowledge and use of the Danish language and culture are appropriately incorporated in their cultural activities. This undertaking can therefore be considered as fulfilled.

e to promote measures to ensure that the bodies responsible for organising or supporting cultural activities have at their disposal staff who have a full command of the regional or minority language concerned, as well as of the language(s) of the rest of the population;

162. Activities regarding the Danish culture and language are mostly offered by Danish minority organisations within the framework of the cultural autonomy. These activities, including payroll costs, are partly supported with public funds of Schleswig-Holstein. The full-time staff employed within the Danish cultural activities are bilingual in Danish and German. The Committee considers this undertaking fulfilled.

f to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;

163. The organisations of the Danish minority are regularly invited to participate in arranging the biannual Schleswig-Holstein Tag. As a part of the EXPO 2000 in Hanover, *Sydslesvigsk Forening* contributed to the *Kulturen, Sprachen, Minderheiten* project, and the Danish library also took part in a cultural programme. The Danish minority is also regularly invited to take part in local cultural events, such as town festivals and town anniversaries. The Committee therefore considers this undertaking fulfilled.

g to encourage and/or facilitate the creation of a body or bodies responsible for collecting, keeping a copy of and presenting or publishing works produced in the regional or minority languages;

164. Collecting, keeping a copy of and publishing works produced in Danish is the responsibility of the Dansk Centralbibliotek, which is at least partly funded by the authorities. The Committee considers this undertaking fulfilled.

2 In respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage and/or provide appropriate cultural activities and facilities in accordance with the preceding paragraph.

165. According to the Initial Report, cultural activities in keeping with the framework of the law in force are not subject to any restrictions. However, outside the Danish language area, the provision of Danish cultural activities and facilities is left to the decision of the autonomous cultural bodies, especially the Danish minority organisations. The Committee considers this undertaking fulfilled.

3 The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.

166. The Committee is aware that Schleswig-Holstein has taken measures to include Danish in the presentation of the culture of the *Land* abroad. However, according to the information received by the Committee, the federal authorities, in pursuing their cultural policy abroad, do not make any special provision for Danish culture. Thus the Committee considers this undertaking partly fulfilled.

Article 13 – Economic and social life

1 With regard to economic and social activities, the Parties undertake, within the whole country:

a to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations;

167. The established law of the Federal Republic of Germany is in compliance with the obligation under subpara. a. The Committee therefore considers this undertaking fulfilled.

- c to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;**

168. The Committee has received no information which enables it to judge whether or not this obligation is fulfilled.

- d to facilitate and/or encourage the use of regional or minority languages by means other than those specified in the above sub-paragraphs.**

169. The promotion of the use of the Danish language in the private sphere, especially in mixed marriages, and within the Danish institutions and organisations is taken up in the Initial Report. The existence of brochures including information about the language situation of the Danish-speakers and about the implications of the Charter for the linguistic rights of the speakers of regional or minority languages (“Sprache ist Vielfalt”) was brought to the attention of the Committee. The Committee therefore considers this undertaking fulfilled.

2 With regard to economic and social activities, the Parties undertake, in so far as the public authorities are competent, within the territory in which the regional or minority languages are used, and as far as this is reasonably possible:

- c to ensure that social care facilities such as hospitals, retirement homes and hostels offer the possibility of receiving and treating in their own language persons using a regional or minority language who are in need of care on grounds of ill-health, old age or for other reasons;**

170. According to the Initial Report, staff members speaking Danish are available in the specialised clinics of the *Land*. However, direct nursing and other care of persons in need of nursing and care is not a public-sector responsibility but carried out mostly by private-sector and free non-profit-making institutions, which, it is claimed, makes it impossible to lay down any requirements concerning the use of Danish. The authorities also justify this state of affairs by mentioning that there are no language barriers in oral communication because the members of the Danish minority are bilingual. The Committee has been informed that two private hospitals in Flensburg offer care facilities in Danish, while in other care institutions, such facilities are not always available. However, in the view of the Committee a systematic approach is necessary to fulfil the undertaking, which accordingly cannot be considered as fulfilled.

The Committee encourages the authorities to take the necessary measures to increase and make more systematic the possibility for the persons concerned to be received and treated in Danish in social care facilities. This should include a bilingual human resources policy.

Article 14 – Transfrontier exchanges

The Parties undertake:

- a to apply existing bilateral and multilateral agreements which bind them with the States in which the same language is used in identical or similar form, or if necessary to seek to conclude such agreements, in such a way as to foster contacts between the users of the same language in the States concerned in the fields of culture, education, information, vocational training and permanent education;**

171. The provision is complied with by the practical implementation of the Bonn/Copenhagen Declarations of 1955. The undertaking is fulfilled.

- b for the benefit of regional or minority languages, to facilitate and/or promote co-operation across borders, in particular between regional or local authorities in whose territory the same language is used in identical or similar form.**

172. Co-operation between users of Danish is facilitated by funding made available by the Ministry for Rural Areas, Town and Country Planning, Agriculture and Tourism to Danish consultants who serve as links between farmers of the Danish minority in Schleswig-Holstein and those in Denmark. The Kreise of Nordfriesland and Schleswig-Flensburg and Flensburg City also jointly promote trans-border cultural projects and events. This is in keeping with an agreement concluded in 1997 between the territorial authorities in question. Their priority activities also include education. In 2000, a further training project of the Police Directorate of Schleswig-Holstein Nord was carried out in conjunction with Denmark. The project included language courses and joint seminars on the culture and history on either side of the border. The Committee therefore considers this undertaking fulfilled.

2.3.2. North Frisian in the North Frisian language area in Schleswig-Holstein

Article 8 – Education

- 1 *With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:*
- a *i to make available pre-school education in the relevant regional or minority languages; or*
 - ii to make available a substantial part of pre-school education in the relevant regional or minority languages; or*
 - iii to apply one of the measures provided for under i and ii above at least to those pupils whose families so request and whose number is considered sufficient; or***
 - iv if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under i to iii above;***

173. The two sub-paragraphs chosen by Germany under this article should normally be exclusive alternatives, however the Committee notes that in the German context pre-school education, though publicly financed, is normally provided by private bodies. If no such facilities are offered by private institutions, there is an obligation on the authorities to offer the necessary services through its own bodies. At present, Frisian is used in varying degrees in 28 nursery schools in the North Frisian area. While Frisian activities on the island of Föhr focus on consolidating and improving the children's existing knowledge of the language, the work related to Frisian in all other areas of Nordfriesland concentrates on learning Frisian as a second language since the majority of families in those communities no longer use Frisian as their common language. Most nursery schools offer Frisian activities one or two days per week. Participation in Frisian instruction is voluntary. According to the information received by the Committee, there is still an evident lack of resources which threatens the presence of Frisian in pre-schools. The authorities favour and encourage the availability in and of Frisian in pre-school but they have not instituted any legal schemes that guarantee the implementation of the provisions taken under Art. 8 (1)(a)(iii). The Committee thus considers this undertaking partly fulfilled.

The Committee encourages the establishment of a legal framework and the allocation of adequate resources to secure the implementation of this undertaking.

- b *i to make available primary education in the relevant regional or minority languages; or*
- ii to make available a substantial part of primary education in the relevant regional or minority languages; or*
- iii to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or*
- iv to apply one of the measures provided for under i to iii above at least to those pupils whose families so request and whose number is considered sufficient;***

174. Frisian is taught as a subject at a number of publicly maintained schools in the North Frisian language area and in many schools of the Danish minority. This instruction is usually offered as a voluntary optional-subject course for the 3rd and 4th grades, competing with foreign-language instruction, mainly English. With the exception of the Lindholm Primary School, where Frisian is used as a medium of instruction from 1st to 9th grade, instruction of Frisian is usually only offered in the form of (voluntary) teaching as a second language. The Committee has been informed that the interest for Frisian instruction has risen among young parents but most of the Frisian school initiatives still depend on the good will and interest on the part of the teachers and school leaders and the motivation of the parents. The Committee was presented with evidence that acknowledges that North Frisian is taught in primary education. However, on the basis of the information received the Committee has the impression that the teaching of Frisian is not an integral part of the curriculum. Therefore, this undertaking cannot be considered fulfilled.

The Committee encourages the authorities to make the teaching of North Frisian an integral part of the curriculum at least to those pupils whose families so request .

- c i to make available secondary education in the relevant regional or minority languages; or**
- ii to make available a substantial part of secondary education in the relevant regional or minority languages; or**
- iii to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or**
- iv to apply one of the measures provided for under i to iii above at least to those pupils who, or where appropriate whose families, so wish in a number considered sufficient;**

175. Secondary schools offer some teaching of Frisian. In Lindholm and Risum secondary modern schools, Frisian instruction is mandatory from 1st to 9th grade. However the Realschulen in the Frisian language area do not offer any Frisian instruction at all and the Gymnasien provide such courses only in their upper grades. The Committee has no information about whether any requests have been made in the Realschulen and in lower parts of the Gymnasium. As far as the Committee is aware, there are no regulations ensuring that education in or of North Frisian will be available to those families who so wish. The Committee therefore concludes that the undertaking is not fulfilled.

The Committee encourages the establishment of a legal framework and the allocation of adequate resources to secure the implementation of this undertaking.

- e ii to provide facilities for the study of these languages as university and higher education subjects;**

176. Frisian is offered as a subject at Kiel University and Flensburg University as part of a supplementary course for teacher-training. Participation in a course in Frisian (or Low German) is also one of the requirements for admission to examinations in the subject "German". Frisian can be studied at Kiel University as a major or minor subject for a Master's degree. At the North Frisian Dictionary Institute at Kiel University, scholarly research on North Frisian has been carried out since 1978. At Flensburg University, there is a part-time professorship and other lectureships covering 15 hours per week per semester. At Kiel University, there is a grade C3 professorship covering eight hours per week per semester.

177. According to the information gathered by the Committee, university-level study of Frisian is at risk because of recent developments in this field. The existing post of one research assistant will be abolished after the retirement of the person presently occupying the post, and the presently vacant chair at Flensburg University has not been filled. Since the facilities offered at Kiel and Flensburg Universities are the only ones for the study of North Frisian as a university subject, the loss of these facilities would jeopardize efforts to maintain and revitalize the North Frisian language. The Committee considers that the undertaking is at present fulfilled.

The authorities are encouraged to ensure that sufficient university-level study of Frisian is preserved.

- f iii if the public authorities have no direct competence in the field of adult education, to favour and/or encourage the offering of such languages as subjects of adult and continuing education;***

178. In Schleswig-Holstein, the Adult Education Centres in the Kreis of Nordfriesland offer courses in the Frisian language. Language courses for adults are also provided by the North Frisian Institute in Bredstedt and by other Frisian organisations, which are partly subsidised by the *Land*. The Committee considers this undertaking fulfilled.

- g to make arrangements to ensure the teaching of the history and the culture which is reflected by the regional or minority language;***

179. In the field of education in the *Länder*, promoting the knowledge of the history and the culture reflected by the regional or minority languages is part of the curricula of all schools. The state institutions for political education also contribute to the imparting of such knowledge in and outside schools. The Committee considers this undertaking fulfilled.

- h to provide the basic and further training of the teachers required to implement those of paragraphs a to g accepted by the Party;***

180. At Kiel University, an offer of Frisian as a subject is included in a supplementary course of studies for teacher training for all school types. The Nordfriesland Supervisory School Authority co-ordinates and supports the publication and dissemination of teachers' support materials for Frisian lessons. It also supports the Frisian 'learning workshop' where educational materials, Frisian translations of children's books, audio-visual media etc. are available for pupils and for the follow-up training of teachers. Meetings of Frisian teachers, instituted and organised by the Institute for Practical and Theoretical School Matters are used for presenting and disseminating the newly developed aids and materials. The Committee is nevertheless aware of the lack of qualified teachers at all levels of education, especially in pre-school and primary school. Although the authorities have taken steps to ensure some teacher training, the Committee is of the opinion that additional efforts are needed. The undertaking is partly fulfilled.

The Committee encourages the authorities to ensure that appropriate facilities for teacher training are in place to meet the needs for education in North Frisian.

- i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.***

181. The supervisory school authorities of the Kreise or Kreisfreie Städte have the responsibility of monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages, for instance North Frisian. The Ministry for Education, Science, Research and Cultural Affairs of Schleswig-Holstein is responsible for the supervision of the Gymnasien and comprehensive schools. However, there is no body specifically responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of North Frisian. In addition, no periodic reports describing the state of affairs of language maintenance in education of North Frisian have so far been made public. The Committee considers this undertaking not fulfilled.

The Committee encourages the authorities to improve and better coordinate the supervision of the measures taken and progress achieved in the field of teaching and to take the necessary steps to provide for the drafting and publication of periodical reports.

2 *With regard to education and in respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage or provide teaching in or of the regional or minority language at all the appropriate stages of education.*

182. The Committee is aware that North Frisian is taught at university level outside the traditional area of its use. The Committee furthermore notes that article 5 paragraph 3 of the Basic Law allows the teaching of North Frisian outside the language area. However, the Committee has received no information indicating that outside the traditional area of its use North Frisian can be taught at levels other than the university one. The Committee therefore concludes that the undertaking is partly fulfilled.

Article 9 – Judicial authorities

1 *The Parties undertake, in respect of those judicial districts in which the number of residents using the regional or minority languages justifies the measures specified below, according to the situation of each of these languages and on condition that the use of the facilities afforded by the present paragraph is not considered by the judge to hamper the proper administration of justice:*

b *in civil proceedings:*

iii to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;

c *in proceedings before courts concerning administrative matters:*

iii to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;

183. The codes of judicial procedures provide that legal documents shall be submitted in the original. If the court does not understand the language in which a given legal document is drafted, it may, at its complete discretion, order a translation to be produced (Section 142 (3) of the Code of Civil Procedure). On the basis of a general reference to the Code of Civil Procedure, the other codes of procedure contain the same rule. Thus, documents and evidence drafted in Frisian are allowed. The costs incurred for translation become part of the litigation costs, the only exception being the social court, where payment is never required. The Committee considers this undertaking fulfilled.

2 *The Parties undertake:*

a *not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language; or*

184. The validity of legal documents is not denied on the grounds that they have been drafted in North Frisian. The Committee considers the undertaking fulfilled.

Article 10 – Administrative authorities and public services

1 *Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:*

a *v to ensure that users of regional or minority languages may validly submit a document in these languages;*

185. The submission of applications, petitions, records, deeds or other documents in North Frisian is allegedly covered by Section 82 a, paragraph 2, of the Schleswig-Holstein *Land* Administration Act which provides for a general possibility to submit documents in a “foreign language”, that is, in a language other than German. The Committee has been informed that the use of the Frisian languages in administration is virtually non-existent. The majority of the North Frisian community is bilingual but has been traditionally discouraged from using North Frisian *vis-à-vis* administrative authorities and public services. Also, the question of who will support the costs generated by the use of a minority language is left at the discretion of the administration. The information received by the Committee indicates that the possibility to validly submit documents in North Frisian is rarely used in practice. The Committee does not know if the reason for this is that few persons can write North Frisian or because conditions for using this possibility are not favourable enough.

186. On the basis of the assumption that foreign language means any language other than German, the Committee concludes that this undertaking is formally fulfilled. In the Committee's view, efforts should be made with a view to creating the conditions encouraging users of North Frisian to use their language before the administrative authorities.

4 *With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:*

c. *compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed in the territory in which that language is used.*

187. According to the Initial Report, requests regarding such an appointment at the *Land* Government level will be examined and the scope for complying with the request will be determined. As a preparation for implementing this obligation, an announcement to this effect was made at the conference of Personnel Officers in June 1999.

188. While acknowledging the positive approach of the authorities, the Committee has not received any information on positive practice or a structural approach with regard to this undertaking. Therefore, the information provided does not make it possible to conclude that this undertaking is fulfilled.

5 *The Parties undertake to allow the use or adoption of family names in the regional or minority languages, at the request of those concerned.*

189. The Committee has been informed that under German law persons may assume the minority-language version of their names by making a pertinent declaration before the Registrar. The Committee considers the undertaking fulfilled.

Article 11 – Media

1 *The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:*

b ii. *to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;*

190. Once a month, a 30-minute programme of Radio Friislon is broadcast by Offener Kanal Westküste. At irregular intervals, Schleswig-Holstein Radio airs a one-hour special single-subject broadcast in the North Frisian language. Open channels alone do not provide an adequate response to the lack of media broadcasting in Frisian. In particular, the Committee has been informed that the lack of funding greatly hampers the use of the open channels.

191. It is obvious that very little broadcasting time is available in North Frisian. The Committee is aware of the fact that the authorities are conscious of the situation and that they intend to facilitate broadcasting in North Frisian.

192. The Committee nevertheless considers that the obligation is not yet fulfilled.

c ii to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;

193. There are no television programmes in North Frisian on a regular basis. The Schleswig-Holstein-Magazin occasionally includes broadcasts on the Frisian tradition and culture, but even these programmes are usually not broadcast in Frisian. Accordingly, the Committee does not consider this undertaking fulfilled.

The Committee encourages the authorities to take measures in order to facilitate broadcasting in radio and television in North Frisian.

d to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;

194. As stated in the Initial Report, it is left to the linguistic minorities, on the basis of the cultural promotion by the *Land* to decide on pertinent measures and to implement these within the limits of the overall funds available. The Committee is aware of support schemes for productions of audio and audio-visual materials directed towards non-profit-making organisations. These schemes seem to be of a general nature and not specifically directed towards productions in North Frisian. The Committee, however, is aware of three radio-broadcasting projects which have received support. It therefore concludes that this undertaking is partly fulfilled.

The Committee encourages the authorities to take measures to facilitate the production and distribution of audio-visual works.

e ii to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;

195. There are four daily newspapers published in the North Frisian speech area which carry journalistic texts in North Frisian once a month. In addition, North Frisian items are published at irregular intervals in one daily, one weekly and two monthly papers. However, the Committee would welcome further information on how the authorities are encouraging or facilitating the publication of newspaper articles in North Frisian on a regular basis. The Committee is not in a position to conclude that this undertaking is fulfilled.

f ii to apply existing measures for financial assistance also to audio-visual productions in the regional or minority languages;

196. According to the Initial Report, direct financial assistance by the State is problematic, due to the freedom of the media. Financial support is given especially within the audio-visual sector to non-profit-making cultural organisations, and special funds are given for the promotion of commissioned productions and co-productions in the cinema sector, television and sound-broadcasting which are made by producers who are native to, or resident in, Schleswig-Holstein. The Committee considers this undertaking formally fulfilled and would welcome examples of cases where financial assistance has been provided to works in North Frisian.

2 *The Parties undertake to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language, and not to oppose the retransmission of radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the freedom of expression and free circulation of information in the written press in a language used in identical or similar form to a regional or minority language. The exercise of the above-mentioned freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*

197. The Basic Law guarantees freedom of information, including the free reception of radio and television broadcasts from the neighbouring countries. The Committee considers this undertaking fulfilled.

Article 12 – Cultural activities and facilities

1 *With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including inter alia the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:*

a *to encourage types of expression and initiative specific to regional or minority languages and foster the different means of access to works produced in these languages;*

198. The Schleswig-Holstein *Land* promotes various types of expression and initiative specific to Frisian by funding, at least partly, bodies like the North Frisian Institute, the Friesenstiftung, the Friesenrat and a number of local Frisian associations which engage in diverse cultural work among the Frisians. The Frisian Institute has a specialised library and archives and offers seminars, courses, workshops and lectures. The *Friesenrat* and the other Frisian associations supported by the State operate various initiatives and programmes which foster access to works produced in Frisian. The Committee thus considers this undertaking fulfilled.

b *to foster the different means of access in other languages to works produced in regional or minority languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;*

199. Translation, post-synchronisation and dubbing of works in Frisian into other languages can be financed by promotional funds of Schleswig-Holstein. Although not very many works are produced in Frisian, the mechanism for making such works available in other languages exists. The Committee therefore concludes that the undertaking is fulfilled.

c *to foster access in regional or minority languages to works produced in other languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;*

200. Translation, post-synchronisation and dubbing of works into Frisian can be financed by promotional and project funds of Schleswig-Holstein and by the annual interest earnings of the Friesenstiftung. Although the Committee has no information on the number of works being translated into Frisian, it considers the undertaking fulfilled.

d *to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;*

201. According to the Initial Report, the promotional funds from the *Land* go to the Frisian institutions and/or appointed bodies for the Frisian Cultural self-management, ensuring in this way that the provision in question is fulfilled. The *Land* also allocates project funds on a case-by-case basis. Representatives of speakers of North Frisian have pointed to the fact that a mere project-funding approach is not conducive to effectiveness over the longer term. Although this reservation is justified, the Committee nevertheless considers the undertaking fulfilled.

e to promote measures to ensure that the bodies responsible for organising or supporting cultural activities have at their disposal staff who have a full command of the regional or minority language concerned, as well as of the language(s) of the rest of the population;

202. The Schleswig-Holstein *Land* subsidises the institutions and associations of the North Frisian ethnic group, which, in turn, organise cultural activities. Germany also mentions in its report that *Land*-provided subsidies can also include funds for covering personnel expenses. There appears to be economic support for personnel on a temporary basis but support on a long term basis seems to be lacking.

203. The Committee takes it for granted that there are Frisian-speaking staff working in Frisian cultural organisations. However, concerning other institutions which may organise or support cultural activities in the Frisian language area the Committee has no evidence of personnel with Frisian language capacity.

204. Therefore the Committee considers this undertaking partly fulfilled.

f to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;

205. The North Frisian organisations and associations are regularly invited to arrange and organise such activities. The Frisian library was also invited to participate in the EXPO 2000 in Hanover. The Committee considers this undertaking fulfilled.

g to encourage and/or facilitate the creation of a body or bodies responsible for collecting, keeping a copy of and presenting or publishing works produced in the regional or minority languages;

206. The library and archives of the North Frisian Institute are responsible for the collection, storage and publication of works produced in North Frisian. The Committee considers this undertaking fulfilled.

h if necessary, to create and/or promote and finance translation and terminological research services, particularly with a view to maintaining and developing appropriate administrative, commercial, economic, social, technical or legal terminology in each regional or minority language.

207. The North Frisian Dictionary Institute of Kiel University has produced nine dictionaries and glossaries in several North Frisian dialects based on the present day and 19th century vocabulary. The Committee considers this undertaking fulfilled.

2 In respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage and/or provide appropriate cultural activities and facilities in accordance with the preceding paragraph.

208. Cultural North Frisian activities can be offered outside the Frisian language area if there is a demand for it. Participation in the Schleswig-Holstein-Tag held in varying places of the *Land* encourages participation from Nordfriesland. The Committee considers this undertaking fulfilled.

3 The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.

209. The Committee is aware that Schleswig-Holstein supports the Section North of a branch of the Inter-Frisian Council (a joint umbrella organization charged *inter alia* with presenting the Frisian culture and maintaining links amongst Frisians). However, according to the information received by the Committee, the federal authorities, in pursuing their cultural policy abroad, do not make any special provision for North Frisian culture. Thus the Committee considers this undertaking partly fulfilled.

Article 13 – Economic and social life

1 *With regard to economic and social activities, the Parties undertake, within the whole country:*

a *to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations;*

210. The established laws of the Federal Republic of Germany are in compliance with undertaking (a). The obligation incurred under this provision is therefore fulfilled for North Frisian.

c *to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;*

211. The Committee has received no information which enables it to judge whether or not this obligation is fulfilled.

d *to facilitate and/or encourage the use of regional or minority languages by means other than those specified in the above sub-paragraphs.*

212. Efforts are especially encouraged among the general public to keep North Frisian alive by promoting the use of Frisian in families. For this purpose, the Friesenrat has published a brochure with information about Frisian in schools and preschools directed to parents (“Zwei sind mehr als Eine”). The North Frisian Institut has published another brochure about the importance of minority languages and bilingualism (“Sprachenland Nordfriesland”). A more comprehensive information booklet (Kulturen – Sprachen – Minderheiten”) was published in connection with EXPO 2000 in Hanover, including information about bringing up children in Frisian and German. The existence of brochures with information about the language situation of the Frisian-speakers and about the implications of the Charter for the linguistic rights of the speakers of regional or minority languages (“Sprache ist Vielfalt”) is likely to encourage the use of North Frisian among the general public. The Committee believes that this work also has an effect in the economic and social sphere and therefore considers the obligation fulfilled.

Article 14 – Transfrontier exchanges

The Parties undertake:

a *to apply existing bilateral and multilateral agreements which bind them with the States in which the same language is used in identical or similar form, or if necessary to seek to conclude such agreements, in such a way as to foster contacts between the users of the same language in the States concerned in the fields of culture, education, information, vocational training and permanent education;*

213. To the knowledge of the Committee, no bilateral or international agreements exist for North Frisian and the Committee has not been informed of any initiatives to develop any such agreements. The Committee therefore considers that the undertaking is not fulfilled.

214. The Committee, however, is aware of the cross-border co-operation developed within the Inter-Frisian Council. This would comply with the undertaking in option (b) of Art. 14, which, however, has not been chosen by the Federal Republic of Germany for North Frisian.

2.3.3. Sater Frisian in the Sater Frisian language area in Lower Saxony

Article 8 – Education

1 *With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:*

- a i to make available pre-school education in the relevant regional or minority languages; or*
- ii to make available a substantial part of pre-school education in the relevant regional or minority languages; or*
- iii to apply one of the measures provided for under i and ii above at least to those pupils whose families so request and whose number is considered sufficient; or*
- iv if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under i to iii above;***

215. In the Sater Frisian language area, Saterland Frisian is spoken, if the parents so wish, for one hour per week with the children attending the five nursery schools in Saterland Municipality. In 2000, 130 parents availed themselves of this opportunity. Frisian activities in the nursery schools are usually directed by voluntary helpers. According to the information gathered by the Committee, there is an urgent need for “institutionalising” the Sater Frisian language activities as a regular part of pre-school offerings in the Saterland area due to the very endangered position of the language. This implies positive action to implement this undertaking. The Committee does not consider this undertaking fulfilled.

The Committee encourages the establishment of a legal framework and the allocation of adequate resources to secure the implementation of this undertaking.

- e ii to provide facilities for the study of these languages as university and higher education subjects;***

216. According to the information received by the Committee, Sater Frisian is not offered as a university and higher education subject at any university. The Committee is aware of some research in Sater Frisian being carried out at Oldenburg and Göttingen Universities. Since there are no facilities for studying the language, the Committee does not consider this undertaking fulfilled.

The Committee encourages the authorities to ensure that research into the language is carried out and that strategies for its preservation are developed, including facilities to study the language.

- f iii if the public authorities have no direct competence in the field of adult education, to favour and/or encourage the offering of such languages as subjects of adult and continuing education;***

217. As stated in the initial periodical report, the course “Speak and read Saterland Frisian” is offered once a year by the Saterland Catholic Educational Association. The course covers ten 2-hour evening classes. The Committee considers this undertaking fulfilled.

- g to make arrangements to ensure the teaching of the history and the culture which is reflected by the regional or minority language;***

218. Under the Framework Curriculum of Lower Saxony, the history and culture reflected in the Sater Frisian language can be offered in class by including regional aspects when studying the subjects “German” and “Music” and when taking part in Frisian instruction. The Committee has received no information about a structural approach to this undertaking and can therefore not conclude that this undertaking is fulfilled.

- i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.***

219. According to the Initial Report, a Working Group established in 1997, consisting of representatives from the Landschaften and Landschaftsverbände, the Niedersächsischer Heimatbund and the schools offices, has the responsibility of monitoring the implementation of the obligations under the Charter which have been accepted by the *Land*. The preparation and regular publication of the report regarding the provisions on education is the task of the Ministry of Education and Cultural Affairs of Lower Saxony. However, there is no body specifically responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of Sater Frisian. In addition, no periodic reports describing the state of affairs of language maintenance in education of Sater Frisian have so far been made public. The Committee considers that this undertaking is not fulfilled.

The Committee encourages the authorities to establish a supervisory body designed to monitor the measures taken in developing education in the Sater Frisian and to draw up periodic reports.

Article 9 – Judicial authorities

1 *The Parties undertake, in respect of those judicial districts in which the number of residents using the regional or minority languages justifies the measures specified below, according to the situation of each of these languages and on condition that the use of the facilities afforded by the present paragraph is not considered by the judge to hamper the proper administration of justice:*

b in civil proceedings:

iii to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;

c in proceedings before courts concerning administrative matters:

iii to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;

220. The codes of judicial procedures provide that legal documents shall be submitted in the original. If the court does not understand the language in which a given legal document is drafted, it may, at its complete discretion, order a translation to be produced (Section 142 (3) of the Code of Civil Procedure). On the basis of a general reference to the Code of Civil Procedure, the other codes of procedure contain the same rule. Documents and evidence drafted in Sater Frisian are thus allowed. The costs incurred for translation become part of the litigation costs, the only exception being the social court, where payment is never required. The Committee considers this undertaking fulfilled.

2 *The Parties undertake:*

- a not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language; or***

221. The validity of legal documents is not denied on the grounds that they have been drafted in Sater Frisian. The Committee considers the undertaking fulfilled.

Article 10 – Administrative authorities and public services

1 *Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:*

a v *to ensure that users of regional or minority languages may validly submit a document in these languages.*

222. According to the Initial Report, this possibility exists, but no use has so far been made of it. The Committee considers this undertaking only formally fulfilled and emphasizes that decided efforts should be made in order to create the conditions encouraging users of Sater Frisian to use their language before the administrative authorities.

c *to allow the administrative authorities to draft documents in a regional or minority language.*

223. The Committee notes that the initial report implies that this provision has become directly applicable in relation to Sater Frisian following the entry into force of the Charter. However, in the Initial Report it is stated that no use has been made of this possibility. The Committee considers that in order to make it clear to the speakers of Sater Frisian that they may submit applications in this language and to ensure that the administration is aware of this, it would be advisable that corresponding instructions (or, when necessary, formal legal rules) are issued to the authorities and made public. The Committee considers that this undertaking is only formally fulfilled.

2 *In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:*

a *the use of regional or minority languages within the framework of the regional or local authority;*

224. In Saterland Municipality, the availability of bilingual administrative staff provides for the possibility to use this language in administrative matters. Staff members indicate their proficiency in Sater Frisian on their office doorplates. It is possible to have civil marriage ceremonies in Sater Frisian and other official acts may also be performed in the Sater Frisian language. The local government also supports publications in Sater Frisian by guaranteeing a minimum number of copies. The Committee considers this undertaking fulfilled.

b *the possibility for users of regional or minority languages to submit oral or written applications in these languages;*

225. In Saterland Municipality, citizens may present their requests in Sater Frisian and receive replies in the same language. Written applications may be submitted in Sater Frisian. According to the Initial Report, no use has so far been made of this possibility. The Committee considers, however, that this undertaking is formally fulfilled.

c *the publication by regional authorities of their official documents also in the relevant regional or minority languages;*

226. As stated in the Initial Report, the Saterland Municipality, which is the traditional Sater Frisian language area, represents the local government level. The information pertinent to this provision is the one under (d). In the Initial Report under this obligation, the information relates only to local authorities. The Committee has received no information regarding the regional authorities and therefore cannot conclude that the undertaking is fulfilled.

d the publication by local authorities of their official documents also in the relevant regional or minority languages;

227. So far, there have been no publications in Sater Frisian. However, according to the Initial Report, preparations are underway with regard to short official communications in Sater Frisian, such as notices on the bulletin boards, especially as regards standard texts which are later to be published as bilingual notices. The undertaking is fulfilled.

e the use by regional authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;

228. As stated in the Initial Report, the Saterland Municipality, which is the traditional Sater Frisian language area, represents the local government level. The information pertinent to this provision is the one under (f). In the Initial Report under this obligation, the information relates only to local authorities. The Committee has received no information regarding the regional authorities and can therefore not conclude that the undertaking is fulfilled.

f the use by local authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;

229. Although the use of Sater Frisian in assemblies is formally allowed, local council members do not, according to the Initial Report, make use of it. The Committee considers this undertaking only formally fulfilled.

4 With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:

a translation or interpretation as may be required;

230. The facilities and staff required for the purpose are available in Saterland Municipality. The Committee therefore considers this undertaking fulfilled.

c compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed in the territory in which that language is used.

231. The Committee is aware that there are people in the local administration with a command of Sater Frisian. However, the Committee has not been informed of any deployment policy adopted regarding this undertaking. The Committee is therefore not in a position to conclude that this undertaking is fulfilled.

5 The Parties undertake to allow the use or adoption of family names in the regional or minority languages, at the request of those concerned.

232. The Committee has been informed that under German law persons may assume the minority-language version of their names by making a pertinent declaration before the Registrar. The Committee considers the undertaking fulfilled.

Article 11 – Media

1 The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

b ii to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;

233. The Broadcasting Act of Lower Saxony lays down that the programmes of private broadcasters must also make appropriate allowance for the cultural diversity of the regions and for the regional languages spoken in Lower Saxony. Despite the Broadcasting Act, there are no private radio programmes broadcast on a regular basis in Sater Frisian. The Committee considers that this option chosen by Germany should lead to practical results. Therefore, this undertaking is only formally fulfilled.

The Committee encourages the authorities to consider measures aimed at encouraging and/or facilitating the broadcasting of radio programmes in Sater Frisian on a regular basis.

c ii to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;

234. The Broadcasting Act of Lower Saxony lays down that the programmes of private broadcasters must also make appropriate allowance for the cultural diversity of the regions and for the regional languages spoken in Lower Saxony. Despite the Broadcasting Act, there is no broadcasting on a regular basis. The Committee considers that over a longer period of time this option chosen by Germany should have practical results and would ask the authorities for information as to how this can be achieved. Therefore, the undertaking is only formally fulfilled.

The Committee encourages the authorities to consider measures aimed at encouraging and/or facilitating the broadcasting of television programmes in Sater Frisian on a regular basis.

d to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;

235. Germany points out in the initial periodical report that the *Land* Broadcasting Act for private broadcasting is also designed to motivate the production and dissemination of audio and audio visual works in the Sater Frisian language. It is also mentioned that the *Land* of Lower Saxony grants subsidies towards the production costs in view of supporting such productions within the framework of cultural promotion. However, the Committee has not been made aware of any special measures designed to encourage or facilitate production of such works in Sater Frisian. The Committee has not been informed of any audio or audiovisual works in Sater Frisian which have received support through these general schemes. The Committee considers this undertaking formally fulfilled and would welcome examples of cases where financial assistance has been provided for works in Sater Frisian.

e ii to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;

236. One daily paper publishes articles in Sater Frisian in its Saturday issue. Some newspapers are reported to be prepared to publish such articles but point out that only a few people are able to read Sater Frisian. The Committee would welcome further information on how the authorities are encouraging or facilitating the publication of newspapers articles in Sater Frisian on a regular basis. The Committee is therefore not in a position to conclude that this undertaking is fulfilled.

f ii to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;

237. According to the Initial Report, the general programming principles which are valid in the *Land* form the basis for the production and dissemination of audio and audio-visual work in the Saterland Frisian language. According to the initial report, the *Land* of Lower Saxony supports productions within the framework of cultural promotion and the committee understands that this financial assistance is also available for audiovisual productions in Sater Frisian. The Committee considers this undertaking formally fulfilled and would welcome examples of cases where financial assistance has been provided to works in Sater Frisian.

- 2** *The Parties undertake to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language, and not to oppose the retransmission of radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the freedom of expression and free circulation of information in the written press in a language used in identical or similar form to a regional or minority language. The exercise of the above-mentioned freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*

238. The Basic Law guarantees freedom of information, including the reception of radio and television programmes from the neighbouring countries. The Committee considers this undertaking fulfilled.

- 3** *The Parties undertake to ensure that the interests of the users of regional or minority languages are represented or taken into account within such bodies as may be established in accordance with the law with responsibility for guaranteeing the freedom and pluralism of the media.*

239. The Committee has not received any information regarding this undertaking and can therefore not conclude that it is fulfilled.

Article 12 – Cultural activities and facilities

- 1** *With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including inter alia the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:*

- a** *to encourage types of expression and initiative specific to regional or minority languages and foster the different means of access to works produced in these languages;*

240. The *Land* of Lower Saxony promotes Saterland Frisian literature through the general promotion of production, distribution and reception of literature in the *Land*. In addition, *Land*-subsidised institutions such as the Literature Council and the Literature Offices are encouraged to include Sater Frisian in their activities. The cultural activities of the Seelter Buund, the association for the preservation of the Saterland local and regional traditions, are sometimes subsidised by the *Land*. The Committee considers this undertaking fulfilled.

- b** *to foster the different means of access in other languages to works produced in regional or minority languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;*

- c** *to foster access in regional or minority languages to works produced in other languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;*

241. Within the framework of general literature promotion, translators are allocated funds for translating literary works. These funds are also available for translations to and from Sater Frisian. The Workshop for Low German and Sater Frisian at Oldenburg University has developed a Sater Frisian dictionary, and it also offers translation services. Although the Committee has not been informed of any concrete works which have benefited from these schemes, the Committee considers the undertaking fulfilled.

- d to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;**

242. The Committee has been informed of the Seelter Buund, a cultural association, dedicated to the preservation of local traditions. However, the Committee has not been informed if this body is responsible for organising and supporting such cultural activities and facilities as required in article 12 paragraph 1. Therefore, the Committee cannot conclude that the obligation is fulfilled.

- e to promote measures to ensure that the bodies responsible for organising or supporting cultural activities have at their disposal staff who have a full command of the regional or minority language concerned, as well as of the language(s) of the rest of the population;**

243. The initial report mentions that the bodies representing the Saterland Frisian interests, which are responsible for organising Sater Frisian cultural activities, are expected to ensure that this provision is fulfilled. The Seelter Bund has no permanent staff but the majority of the honorary chairmen and members have at least a passive knowledge of Sater Frisian. The local authorities encourage staff members to take part in Sater Frisian courses. The Catholic Educational Association offers courses in Sater Frisian on various levels to extend the knowledge of the language to wider circles. The Committee considers the undertaking fulfilled.

- f to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;**

244. In Lower Saxony, many full-time and honorary helpers are involved in the planning and organisation of activities and events in Sater Frisian. The obligation seems to be fulfilled.

- g to encourage and/or facilitate the creation of a body or bodies responsible for collecting, keeping a copy of and presenting or publishing works produced in the regional or minority languages;**

245. The libraries of Oldenburg and Göttingen Universities have a wide range of Frisian literature. However, the Committee has not been informed as to how extensive the collection of works is. Furthermore, it is not clear whether the activities referred to above are carried out on a voluntary basis or whether a clear responsibility has been assigned. Therefore, the Committee would welcome further information and considers this undertaking partly fulfilled.

- 2 In respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage and/or provide appropriate cultural activities and facilities in accordance with the preceding paragraph.**

246. Participation in the annual "Tag der Niedersachsen" organised in varying places of the *Land* is possible. Other cultural Sater Frisian events can also be organised outside the Saterland Municipality if there is a demand for it. The Committee considers this undertaking fulfilled.

- 3 The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.**

247. On the basis of the information made available to the Committee, it would appear that Lower Saxony supports the Inter-Frisian Council (a joint umbrella organization charged *inter alia* with presenting the Frisian culture and maintaining links amongst Frisians). However, according to the information received by the Committee, the Federal authorities, in pursuing their cultural policy abroad, do not make any special provision for Sater Frisian culture. Thus the Committee considers this undertaking partly fulfilled.

Article 13 – Economic and social life

1 *With regard to economic and social activities, the Parties undertake, within the whole country:*

a *to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations;*

248. The obligation under (a) is in compliance with the established law of the Federal Republic of Germany and therefore fulfilled for Sater Frisian as well as other regional or minority languages. The Committee considers this undertaking fulfilled.

c *to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;*

249. The Committee has received no information which enables it to judge whether or not this obligation is fulfilled.

d *to facilitate and/or encourage the use of regional or minority languages by means other than those specified in the above sub-paragraphs.*

250. The Committee has not received any information aimed at facilitating and/or encouraging the use of regional or minority languages by means other than those specified in the above sub-paragraphs and is therefore not in a position to conclude that this undertaking is fulfilled.

2.3.4. Low German in the Länder of Bremen, Hamburg, Mecklenburg-Western Pomerania, Lower Saxony and Schleswig-Holstein

251. Over the last four centuries, Low German has traditionally been excluded from public life and is rarely used in written form. The speakers tended to accept this exclusion (as Low German is still seen by the majority as “a part of German”, or as one of its dialects), and they do not attempt to speak it when dealing with the judicial and administrative authorities. The lack of specific administrative/judicial terminology makes things more difficult and the setting up of a specific institution fostering the use of Low German in public life would be necessary to improve the situation.

252. The inclusion of Low German within the scope of the Charter has represented a kind of revolution, a very big, positive step towards the recognition by the German society of the value of this language (although the perception still differs from one region to another). Although they receive some official help, most of the activities described in the report, exist thanks to the motivation of associations, teachers and parents working on a voluntary basis. There is a need for consistent Federal and *Land* policies and specific regulations to make the undertakings more applicable. In many cases the protection actually provided for Low German in practice seems more to resemble Part II protection, although formally in the above mentioned *Länder* it enjoys protection under Part III.

253. The introduction of Low German in the school curricula by some *Länder* has had a positive impact, but there are many obstacles to overcome. One important obstacle is the general lack of trained teachers who are competent to work at pre-school, primary and secondary schools. At present, many of them are working as volunteers in giving additional courses of Low German, without support at university level and without systematic education in Low German. As long as the legal regulation of school education leaves it to teachers and directors of school institutions to decide whether and to what degree Low German is taken up as a topic of teaching, progress will depend on general attitudes of teachers and parents. In the broad public view, however, Low German still tends to be perceived as a dialect. The generation gap in the use of Low German will very soon represent an additional problem for school education, since only few teachers of the middle and young generations use Low German as an ordinary means of communication. The Committee considers that positive measures are necessary in order to ensure that Low German is recognised as a language in its own right and regards the ratification in favour of Low German as a positive step in that direction.

a. In the Free Hanseatic City of Bremen

Article 8 – Education

- 1 With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:**
- a i to make available pre-school education in the relevant regional or minority languages; or**
 - ii to make available a substantial part of pre-school education in the relevant regional or minority languages; or**
 - iii to apply one of the measures provided for under i and ii above at least to those pupils whose families so request and whose number is considered sufficient; or**
 - iv if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under i to iii above;**

254. Bremen has organised advisory services for day care centres to help them to provide for the use of Low German in pre-school education. Taking into account the competence of Bremen in the field of pre-school education, the above information is not sufficient to conclude whether the undertaking is fulfilled or not and the Committee would welcome further information in the next periodical report.

- b iii to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum;**

255. Low German is an option for teaching staff within the curricula for the subject of German and it is left to the arbitrary choice of teachers to decide whether the Low German language is taught or not. Clearly Low German is an integral part of another subject, rather than forming a part of the curriculum in its own right. However, on the basis of the information given, it is not clear if there actually is teaching of Low German as indicated in this obligation. For these reasons the Committee cannot conclude that this undertaking is fulfilled.

The authorities are encouraged to take the necessary measures to ensure that Low German forms a part of the curriculum in its own right.

- c iii to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum;**

256. The Committee has received no information enabling it to assess whether teaching of Low German is an integral part of the curriculum and is therefore not in a position to conclude that the undertaking is fulfilled.

- e ii to provide facilities for the study of these languages as university and higher education subjects;**

257. Bremen University regularly offers Low German courses. The Committee thus considers this undertaking fulfilled.

- f i to arrange for the provision of adult and continuing education courses which are taught mainly or wholly in the regional or minority languages;**

258. The adult education centres regularly offer courses on Low German language and literature. The Committee thus considers that this undertaking is fulfilled.

g to make arrangements to ensure the teaching of the history and the culture which is reflected by the regional or minority language;

259. Bremen University offers various courses on learning of Low German and on regional history. However, there is no clear information about arrangements in the other areas. The Committee would welcome further information.

h to provide the basic and further training of the teachers required to implement those of paragraphs a to g accepted by the Party

260. Bremen University offers various courses on Low German and regional history. Low German is also taught as a topic in follow-up training for teachers. The Committee has also been informed that there are possibilities to learn Low German both in teacher education and teacher-training. However, there is no information about any systematic scheme for providing Low German in teacher education and training with the view to implementing the undertaking regarding education. The Committee is therefore not in a position to conclude whether this undertaking is fulfilled.

Article 9 – Judicial authorities

1 The Parties undertake, in respect of those judicial districts in which the number of residents using the regional or minority languages justifies the measures specified below, according to the situation of each of these languages and on condition that the use of the facilities afforded by the present paragraph is not considered by the judge to hamper the proper administration of justice:

b in civil proceedings:

iii to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;

c in proceedings before courts concerning administrative matters:

iii to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;

261. The codes of judicial procedures provide that legal documents shall be submitted in the original. If the court does not understand the language in which a given legal document is drafted, it may, at its complete discretion, order a translation to be produced (Section 142 (3) of the Code of Civil Procedure). On the basis of a general reference to the Code of Civil Procedure, the other codes of procedure contain the same rule. Thus, documents and evidence drafted in Low German are allowed. The costs incurred for translation become part of the litigation costs, the only exception being the social court, where payment is never required. The Committee considers these undertakings fulfilled.

2 The Parties undertake:

a not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language; or

262. The validity of legal documents is not denied on the grounds that they have been drafted in Low German. The Committee considers that this undertaking is fulfilled.

Article 10 – Administrative authorities and public services

1 Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:

a v to ensure that users of regional or minority languages may validly submit a document in these languages;

263. The German Government has informed the Committee that this provision has become directly applicable in Bremen following the entry into force of the Charter. Bremen has expressly refrained from adopting any special administrative regulations in this respect, in order “to stem the flood of legal rules”. However, the Committee takes the view that this provision is formulated in a way which would not automatically make it self-executing. Furthermore, in order to make it clear to speakers of Low German that they may submit documents in this language and to ensure that the administration is aware of this, it would be advisable that corresponding instructions (or, where necessary, formal legal rules) are issued to the authorities and made public. The Committee considers that this undertaking is only formally fulfilled.

c to allow the administrative authorities to draft documents in a regional or minority language.

264. The Committee notes that the initial report implies that this provision has become directly applicable in relation to Low German following the entry into force of the Charter. However, in the Initial Report it is stated that no use has been made of this possibility. The Committee considers that in order to make it clear to the competent administrative authorities that they may draft documents in Low German, it would be advisable that corresponding instructions (or, where necessary, formal legal rules) are issued to the authorities and made public. The Committee therefore considers that this undertaking is only formally fulfilled.

2 In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:

a the use of regional or minority languages within the framework of the regional or local authority;

265. The German Government has informed the Committee that this provision is directly applicable in Bremen. The German Government also refers to practical measures and mentions, as an example, doorplates indicating the relevant linguistic competence of the staff member concerned. The Committee refers here to the general comments made under para. 263 above. On the basis of the information received, the Committee considers the undertaking partly fulfilled.

b the possibility for users of regional or minority languages to submit oral or written applications in these languages;

266. The German Government has informed the Committee that this provision is directly applicable. The Committee refers here to the general comments made under para. 263 above. Even assuming that no further legal acts may be required for its implementation, the Committee has not received any information as to what extent this provision is actually applied in practice. Furthermore, in order to make it clear to the speakers of Low German that they may submit applications in this language and to ensure that the administration is aware of this, it would be advisable that corresponding instructions (or when necessary formal legal rules) are issued to the authorities and made public. The Committee considers that this undertaking is only formally fulfilled.

c the publication by regional authorities of their official documents also in the relevant regional or minority languages;

d the publication by local authorities of their official documents also in the relevant regional or minority languages;

267. The German Government has informed the Committee that these provisions are likewise directly applicable. The Committee refers here to the general comments made under para. 263 above. The Committee has not received any information of examples of the practical implementation of this provision or of the encouragement of such publications. The Committee is therefore not in a position to conclude whether or not these undertakings are fulfilled.

e the use by regional authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;

f the use by local authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;

268. According to the information provided by the German Government, Low German is used to some extent in the regional parliaments (*Beiräte*) and in the Bremen *Bürgerschaft*. The Committee therefore considers that these undertakings are fulfilled.

Article 11 – Media

1 The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

b ii to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;

269. Radio Bremen regularly broadcasts in Low German. In its regional programme “Buten en binnen” (“Outside and Inside”), Radio Bremen (which is a member of the ARD, i.e. The Association of Public Broadcasting Stations in Germany) deals with all relevant subjects related to Low German and will further develop such offers. The Committee considers that a commendable effort is made by public stations. However, taking into account the nature of the option chosen by the Government, the Committee does not have any information as to measures of encouragement for the broadcasting of radio programmes in Low German by private stations. The Committee is therefore not in a position to conclude that this undertaking is fulfilled.

c ii to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;

270. According to the information provided by the German Government, the only programme in Low German broadcast by the public television is the nativity story at Christmas. There is no information about television programmes in Low German in private broadcasting and the Committee is aware of no information as to measures of encouragement for the broadcasting of television programmes in Low German by private stations. Therefore, the Committee considers that this obligation is not fulfilled.

d to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;

271. Some of the productions of *Radio Bremen – Plattdeutsche Nachrichten* (“Low German news”) are disseminated, as texts with audio versions, on the Internet. However, the Committee has not received any information on the steps taken by Bremen aimed at encouraging the production and distribution of audio and audiovisual works in Low German. On this basis, the Committee cannot conclude that this undertaking is fulfilled.

e ii to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;

272. A monthly magazine exists ("*INS PRESSE*", i.e. the magazine of the *Institut für Niederdeutsche Sprache*) but no newspaper articles are published on a regular basis. However, the Committee would welcome further information on how the authorities are encouraging or facilitating the publication of newspaper articles in Low German on a regular basis. The Committee is therefore not in a position to conclude that this undertaking is fulfilled.

f ii to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;

273. Open Channel productions are granted subsidies. The Committee considers this undertaking formally fulfilled and would welcome examples of cases where financial assistance has been provided to audiovisual productions in Low German.

g to support the training of journalists and other staff for media using regional or minority languages.

274. No information has been provided to the Committee in this respect. The Committee therefore, cannot conclude that this undertaking is fulfilled.

2 The Parties undertake to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language, and not to oppose the retransmission of radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the freedom of expression and free circulation of information in the written press in a language used in identical or similar form to a regional or minority language. The exercise of the above-mentioned freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

275. Free reception of radio and television broadcasts from neighbouring countries is guaranteed by the Basic Law. Therefore, the Committee concludes that this undertaking is fulfilled.

Article 12 – Cultural activities and facilities

1 With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including inter alia the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:

a to encourage types of expression and initiative specific to regional or minority languages and foster the different means of access to works produced in these languages;

276. The Committee notes that Bremen co-finances the Institute for Low German (INS) and takes note of the important contribution by the latter in this field. The Committee considers this undertaking fulfilled. However, it would welcome further information in the forthcoming report on which activities Bremen carries out in addition to the work performed by the INS.

b to foster the different means of access in other languages to works produced in regional or minority languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;

277. The Committee was informed that Bremen allocates funds for translations of published works from Low German. The obligation has therefore been fulfilled.

c to foster access in regional or minority languages to works produced in other languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;

278. The Committee notes that funds are allocated to the production of Low German stage performances of plays originally written in other languages. Bremen promotes the required translations. However, the Committee has not been informed of any other activities concerning translation of works nor has it been informed of any aid to develop dubbing, post-synchronisation and subtitling activities. On the basis of the information it has received the Committee considers that this undertaking is only partly fulfilled.

d to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;

279. The Committee has not been made aware of any information in this respect and can therefore not conclude that this provision is fulfilled.

e to promote measures to ensure that the bodies responsible for organising or supporting cultural activities have at their disposal staff who have a full command of the regional or minority language concerned, as well as of the language(s) of the rest of the population;

280. The Committee has not received any relevant information in this respect and therefore cannot conclude that this provision is fulfilled.

f to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;

281. The Committee has not been made aware of any information pointing to the inclusion of representatives of Low German. The Committee therefore cannot conclude that this undertaking is fulfilled.

g to encourage and/or facilitate the creation of a body or bodies responsible for collecting, keeping a copy of and presenting or publishing works produced in the regional or minority languages;

282. The Institute for Low German collects works in Low German. The Committee therefore considers this undertaking fulfilled.

3 The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.

283. Within the New Hanseatic Interregio, an association of the Länder of Bremen and Lower Saxony with the northern provinces of the Netherlands, cultural events also include Low German as the typical language of Northern Germany. However, according to the information received by the Committee, the federal authorities, in pursuing their cultural policy abroad, do not make any special provision for Low German culture in Bremen. Thus the Committee considers this undertaking partly fulfilled.

Article 13 – Economic and social life

1 With regard to economic and social activities, the Parties undertake, within the whole country:

a to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations;

284. The Committee has not received any information pointing to the existence of legislation which prohibits or limits the use of the minority language and considers this obligation fulfilled.

c to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;

285. The Committee has received no information which enables it to judge whether or not this obligation is fulfilled.

2 With regard to economic and social activities, the Parties undertake, in so far as the public authorities are competent, within the territory in which the regional or minority languages are used, and as far as this is reasonably possible:

c to ensure that social care facilities such as hospitals, retirement homes and hostels offer the possibility of receiving and treating in their own language persons using a regional or minority language who are in need of care on grounds of ill-health, old age or for other reasons;

286. According to the Initial Report, staff members speaking Low German are available in the specialised clinics of the *Land*. However, direct nursing and other care of persons in need of nursing and care is not a public-sector responsibility but carried out mostly by private-sector and free non-profit-making institutions, which, it is claimed, makes it impossible to lay down any requirements as regards the use of Low German. The Committee must conclude that the *Land* has not ensured implementation of this undertaking.

The Committee encourages the authorities to take the necessary measures to increase and make more systematic the possibility for the persons concerned to be received and treated in Low German in social care facilities.

b. In the Free and Hanseatic City of Hamburg

Article 8 – Education

1 With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

a i to make available pre-school education in the relevant regional or minority languages; or

ii to make available a substantial part of pre-school education in the relevant regional or minority languages; or

iii to apply one of the measures provided for under i and ii above at least to those pupils whose families so request and whose number is considered sufficient; or

iv if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under i to iii above;

287. Work on the development of a concept for the inclusion of Low German in pre-school education is to start in 2002. On the basis of this information the Committee considers that this undertaking is not fulfilled at the present stage.

b iii to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or

288. Low German is an optional element of the curriculum. Low German texts on language and literature are included, mostly in an integrative fashion, in the study of German language and literature. However, there is insufficient information for the Committee to assess whether this scheme actually ensures that there will be sufficient teaching of Low German as an integral part of the curriculum. The Committee can therefore not conclude that this undertaking is fulfilled.

c iii to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or

289. Low German is an optional element of the curriculum for German courses. An additional option is the establishment of courses in subjects chosen from a compulsory group in secondary education stage I or a basic course, with an emphasis on Low German, in the Gymnasium upper secondary grades. However, a prerequisite is a sufficient demand by pupils or teachers and use of this offer has been made in two cases only, despite a circular by the Senate Authority for Schools, Youth and Vocational Training encouraging the organisation of such courses.

290. The Committee observes that these optional elements do not provide for the teaching of Low German as an integral part of the curriculum.

291. The Committee therefore concludes that this obligation is not fulfilled.

d iii to provide, within technical and vocational education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or

292. The Committee has been informed that due to lack of demand, Low German at present is not part of the curriculum as far as technical and vocational education is concerned. The Committee therefore considers that this obligation is not fulfilled.

e ii to provide facilities for the study of these languages as university and higher education subjects; or

293. The Hamburg University provides facilities for this purpose. In general, at the university level Low German may be chosen as a subject. The Committee therefore considers this undertaking fulfilled.

f ii to offer such languages as subjects of adult and continuing education; or

294. Two courses are available on a regular basis. The Committee therefore considers that this obligation is fulfilled.

g to make arrangements to ensure the teaching of the history and the culture which is reflected by the regional or minority language;

295. In Hamburg, the Low German language was flourishing at the time of the Hanseatic League and determined daily life. History lessons in school draw attention to this fact and inform about this particular part of history and culture. The Committee accordingly considers that this obligation is fulfilled.

h to provide the basic and further training of the teachers required to implement those of paragraphs a to g accepted by the Party;

296. Teacher-training does not provide for particular training in Low German. Would-be teachers can attend courses on Low German language and literature at university and can demand that courses be included in their required-subject credits. Low German subjects can also be included in examinations. However, the grades obtained for Low German courses are not shown on the certificate and do not provide a specific qualification as teacher in/of Low German. On the basis of the information given the Committee is not in a position to conclude that the training referred to in this undertaking is adequate to implement the provisions of article 8.

- i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.***

297. The Senate Authority for Schools, Youth and Vocational training provides advice and guidance to the Hamburg schools with regard to the dissemination of Low German. There is, however, no supervisory body specifically entrusted with the task of monitoring the measures taken and the progress achieved in developing the teaching of Low German, nor are there any public reports of the findings of such bodies. The Committee therefore concludes that the obligation is not fulfilled.

The Committee encourages the authorities to establish a supervisory body designed to monitor the measures taken in developing education in Low German in Hamburg and to draw up periodic reports.

Article 9 – Judicial authorities

- 1 The Parties undertake, in respect of those judicial districts in which the number of residents using the regional or minority languages justifies the measures specified below, according to the situation of each of these languages and on condition that the use of the facilities afforded by the present paragraph is not considered by the judge to hamper the proper administration of justice:**

- b in civil proceedings:**

- iii to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;***

- c in proceedings before courts concerning administrative matters:**

- iii to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;***

298. The codes of judicial procedures provide that legal documents shall be submitted in the original. If the court does not understand the language in which a given legal document is drafted, it may, at its complete discretion, order a translation to be produced (Section 142 (3) of the Code of Civil Procedure). On the basis of a general reference to the Code of Civil Procedure, the other codes of procedure contain the same rule. The costs incurred for translation become part of the litigation costs. The Committee considers these undertakings fulfilled.

- 2 The Parties undertake:**

- a not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language;**

299. The validity of legal documents is not denied on the grounds that they have been drafted in Low German. The Committee thus considers that this undertaking is fulfilled.

Article 10 – Administrative authorities and public services

1 Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:

a v to ensure that users of regional or minority languages may validly submit a document in these languages;

300. The German Government has informed the Committee that this provision has become directly applicable in Hamburg following the entry into force of the Charter. The city of Hamburg has expressly refrained from adopting any special administrative regulations in this respect, in order to “stem the flood of legal rules”. However, in the view of the Committee this provision is formulated in a way which would not make it self-executing. Furthermore, in order to make it clear to speakers of Low German that they may submit documents in this language and to ensure that the administration is aware of this, it would be advisable that instructions (or, where necessary, formal legal rules) are issued to the competent authorities and made public. The Committee considers that this undertaking is only formally fulfilled.

c to allow the administrative authorities to draft documents in a regional or minority language.

301. The considerations expressed above, para. 300, also apply here. Furthermore, the Committee considers that in order to make it clear to the competent administrative authorities that they may draft documents in Low German, it would be advisable that instructions (or, where necessary, formal legal rules) are issued to the competent authorities and made public. The Committee therefore considers that this undertaking is only formally fulfilled.

2 In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:

a the use of regional or minority languages within the framework of the regional or local authority;

302. The German Government has informed the Committee that this provision is directly applicable in Hamburg. The German Government also refers to practical measures and mentions, as an example, doorplates indicating the relevant linguistic competence of the staff member concerned. The Committee refers here to the general comments made under para. 300 above. On the basis of the information received, the Committee considers the undertaking partly fulfilled.

b the possibility for users of regional or minority languages to submit oral or written applications in these languages;

303. The German Government has informed the Committee that this provision is directly applicable. The Committee refers here to the general comments made under para. 300 above. Even assuming that no further legal acts may be required for its implementation, the Committee has not received any information as to what extent this provision is actually applied in practice. Furthermore, in order to make it clear to the speakers of Low German that they may submit applications in this language and to ensure that the administration is aware of this, it would be advisable that instructions (or, where necessary, formal legal rules) are issued to the competent authorities and made public. The Committee therefore considers that this undertaking is only formally fulfilled.

e the use by regional authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;

f the use by local authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;

304. Occasionally, Low German is spoken in the City-State Parliament sessions and *Bezirk* assemblies by individual delegates proficient in that language. In the City-State Parliament this happened last on the occasion of the debate on the ratification of the Charter and of the debate on the "major interpellation" (*Groote Anfroog*). In addition, the Senate provides answers in Low German to written questions concerning the Charter submitted in Low German. The Committee therefore considers these undertakings fulfilled.

4 With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:

c compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed in the territory in which that language is used.

305. Applications for re-assignments have not yet been submitted by public service employees wishing to be appointed in the territory in which Low German is used. In some District Council Offices, however, employees were asked whether they spoke Low German so that they might, if required, be appointed to appropriate posts.

Article 11 – Media

1 The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

b ii to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;

306. The programming mandate under Section 5 of the Inter-State Treaty on *Norddeutscher Rundfunk* (NDR) contains the stipulation that "adequate room must be given in the programme to the North German region, its culture and language". The radio broadcasting programme of "*Hamburg-Welle 90.3*" covers regular broadcasts in Low German; on weekdays, the news is read in Low German once a day. Once a month, the public event "*Sonntakte*" is broadcast by *Hamburg-Welle* and parts of it are often in Low German. The Committee considers that a commendable effort is made by public stations. However, taking into account the nature of the option chosen by the Government, the Committee does not have any information as to measures of encouragement for the broadcasting of radio programmes in Low German by private stations. The Committee is therefore not in a position to conclude that this undertaking is fulfilled.

c ii to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;

307. The broadcasting station *N 3* of *Norddeutscher Rundfunk* (NDR) broadcasts the talk show "*Talk op Platt*" ("Talk in Low German"). However, taking into account the nature of the option chosen by the Government, the Committee does not have any information as to measures of encouragement for the broadcasting of television programmes in Low German by private stations. The Committee is therefore not in a position to conclude that this undertaking is fulfilled.

d to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;

308. According to the information provided by the broadcasting corporation *Norddeutscher Rundfunk* (NDR), which is an incorporated public-law institution, there are no plans to increase the airtime of NDR devoted to Low German items. The Committee has not received any information on the steps taken by Hamburg aimed at encouraging the production and distribution of audio and audiovisual works in Low German. On this basis, the Committee cannot conclude that this undertaking is fulfilled.

e ii to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;

309. Low German articles appear every day in the daily evening paper "*Hamburger Abendblatt*" and regularly in various weeklies of the city districts (e.g. in the weekly "*Niendorfer Wochenblatt*") and in relevant information bulletins. However, the Committee would welcome further information on how the authorities are encouraging or facilitating the publication of newspaper articles in Low German on a regular basis. The Committee is therefore not in a position to conclude that this undertaking is fulfilled.

f ii to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;

310. The German Government has informed the Committee that tape-recordings and videograms of readings by authors and stage productions in Low German are on sale. However, the Committee has not received information about the possibility to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages. The Committee considers this undertaking formally fulfilled and would welcome examples of cases where financial assistance has been provided to works in Low German.

g to support the training of journalists and other staff for media using regional or minority languages.

311. The Committee has not received any information in this respect. It can therefore not be concluded that this undertaking is fulfilled.

2 The Parties undertake to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language, and not to oppose the retransmission of radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the freedom of expression and free circulation of information in the written press in a language used in identical or similar form to a regional or minority language. The exercise of the above-mentioned freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

312. Free reception of radio and television broadcasts from neighbouring countries is guaranteed by the Basic Law. Therefore, the Committee concludes that this undertaking is fulfilled.

Article 12 – Cultural activities and facilities

1 With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including inter alia the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:

a to encourage types of expression and initiative specific to regional or minority languages and foster the different means of access to works produced in these languages;

313. Financial support is provided to the INS (Institute for the Low German Language) and to the Hamburg *Ohnsorg-Theater*. Due account is taken by various institutions for funding of Low German activities (e.g. *Quickborn-Vereinigung, Fehrgilde*). The Committee considers this undertaking fulfilled.

- d to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;**

314. In handling applications for support for literary projects in Low German, the Hamburg (Senate) Authority for Cultural Affairs gives equal priority to such projects and to those related to standard German. It also encourages institutions, included in the budget, in the literary field (*Hamburger Öffentliche Bücherhallen* - Hamburg Public Libraries, *Literaturhaus* – House of Literature, *Freie Akademie der Künste* - Academy of Liberal Arts) to grant equal treatment to Low German. The Committee would welcome further information on the extent to which the institutions mentioned above actually take into consideration the Low German background of proposed activities.

- f to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;**

315. The Hamburg Senate Authority for Cultural Affairs provides co-funding for the *Institut für niederdeutsche Sprache* (INS - Institute for the Low German Language) in Bremen; the Institute's full-time and voluntary staff and members carry out a considerable range of cultural planning and counselling. The Committee considers however that this information is not sufficient to conclude that this undertaking is fulfilled.

- g to encourage and/or facilitate the creation of a body or bodies responsible for collecting, keeping a copy of and presenting or publishing works produced in the regional or minority languages;**

316. The INS collects works in Low German. The Committee therefore considers this undertaking fulfilled.

- 3 The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.**

317. The Committee has not been made aware of any information in this respect. This undertaking can therefore not be considered as being fulfilled.

Article 13 – Economic and social life

- 1 With regard to economic and social activities, the Parties undertake, within the whole country:**

- a to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations;**

318. The Committee has not received any information pointing to the existence of legislation which prohibits or limits the use of the minority language and considers this obligation fulfilled.

- b to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;**
- c to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;**
- d to facilitate and/or encourage the use of regional or minority languages by means other than those specified in the above sub-paragraphs.**

319. The Committee has not received any information in this respect. These undertakings can therefore not be considered as being fulfilled.

2 With regard to economic and social activities, the Parties undertake, in so far as the public authorities are competent, within the territory in which the regional or minority languages are used, and as far as this is reasonably possible:

c to ensure that social care facilities such as hospitals, retirement homes and hostels offer the possibility of receiving and treating in their own language persons using a regional or minority language who are in need of care on grounds of ill-health, old age or for other reasons;

320. In publicly subsidised care facilities working in the field of aid for the homeless, integration assistance, care for the elderly, nursing, care for drug-users and sheltered workshops for the disabled, no specific measures are taken. Only day-care centres for the elderly subsidised by the City of Hamburg can provide such a possibility. In general terms, reference is also made to non-specified pragmatic solutions when speakers of Low German wish to communicate in this language. On the basis of the information received the Committee cannot consider this undertaking fulfilled.

The Committee encourages the authorities to take the necessary measures to increase and make more systematic the possibility for the persons concerned to be received and treated in Low German in social care facilities.

c. In Mecklenburg-Western Pomerania

Article 8 – Education

With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

- a i to make available pre-school education in the relevant regional or minority languages; or**
- ii to make available a substantial part of pre-school education in the relevant regional or minority languages; or**
- iii to apply one of the measures provided for under i and ii above at least to those pupils whose families so request and whose number is considered sufficient; or**
- iv if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under i to iii above;**

321. Recommendations and model projects exist for nursery schools in this respect. There is a certain presence of Low German in 56 pre-schools, but the quality and the intensity of this presence is very different from school to school. About 30 pre-school educators have received training in Low German. Long-term arrangements are being considered. However, the Committee has not received any information about any planned activities in order to apply the measures envisaged under Article 8 para. 1(a)(iv). Therefore, the Committee considers the undertaking partly fulfilled.

b iii to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or

322. A mandatory Low German Framework Curriculum exists. Low German is not taught as a separate subject but is included in regular class instruction (e.g. German, music, elementary science, geography). Activity groups and competitions in Low German exist. However, the extent to which the implementation of the Low German Framework Curriculum amounts to teaching of the Low German is unclear. The Committee is therefore not in a position to conclude that this undertaking is fulfilled.

c iii to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or

323. A mandatory Low German Framework Curriculum exists. Low German is included in German and other subjects and is taught in the form of required elective courses, optional subject and activity groups. The regular classroom instruction ranges from 38% to 75% of the pupils according to different forms of secondary education. However, the extent to which the implementation of the Low German Framework Curriculum amounts to teaching of the Low German is unclear. The Committee is therefore not in a position to conclude that this undertaking is fulfilled.

d iii to provide, within technical and vocational education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or

324. Low German is not offered as a separate subject but as a part of other subjects on the basis of the Framework Curriculum. However, the extent to which the implementation of the Low German Framework Curriculum applies to teaching of the Low German is unclear. The Committee is therefore not in a position to conclude that this undertaking is fulfilled.

e ii to provide facilities for the study of these languages as university and higher education subjects; or

325. Colleges and universities offer a large variety of Low German courses. In particular, there are two Chairs for Low German (universities of Rostock and Greifswald) that very much contribute to increase the interest for this language and its future development. The Committee therefore considers this undertaking fulfilled.

g to make arrangements to ensure the teaching of the history and the culture which is reflected by the regional or minority language;

326. The Committee has been informed that the Low German professors of the Universities of Rostock and Greifswald are responsible for such arrangements. However, the Committee needs further information in the second periodical report on the activities pursued by the institutions mentioned to be able to conclude on the fulfilment of this undertaking.

h to provide the basic and further training of the teachers required to implement those of paragraphs a to g accepted by the Party;

327. Both basic and further training of German teachers cover Low German. In particular, University studies of Low German are based on the Training and Examination Regulations of the Rostock and Greifswald Universities. Continuing training of teachers for schools offering general education is governed by the provisions of the Schools Act. During the second training phase at the *Landesinstitut Mecklenburg-Vorpommern für Schule und Ausbildung* (L.I.S.A.), teachers in training in the primary school sector or for the subject of 'German' in secondary schools can select and treat topics referring to Low German aspects. These activities build on, and continue, the Low German training taken up at Greifswald University and the course of study followed at Rostock University, with Low German as a main subject. Since 1992, follow-up training of teachers for Low German in schools has been organized by the L.I.S.A. Over the past few years, an Advisory Centre for Low German in Schools has developed at L.I.S.A. headquarters. The Committee considers this undertaking fulfilled.

- i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.***

328. In September 2000 the Low German Consultative Councils of Mecklenburg-Western Pomerania and Schleswig-Holstein held a joint meeting covering, *inter alia*, the subject of “Low German in pre-school, school and college/university”. The basic findings are documented in a publication issued specifically for this meeting. However, there does not seem to exist a supervisory body specifically entrusted with the task of monitoring the measures taken and the progress achieved in developing the teaching of Low German, nor are there any public reports of the findings of such a body. The Committee therefore concludes that the obligation is not fulfilled.

The Committee encourages the authorities to establish a supervisory body designed to monitor the measures taken in developing education in Low German in Mecklenburg-Western Pomerania and to draw up periodic reports.

Article 9 – Judicial authorities

- 1 The Parties undertake, in respect of those judicial districts in which the number of residents using the regional or minority languages justifies the measures specified below, according to the situation of each of these languages and on condition that the use of the facilities afforded by the present paragraph is not considered by the judge to hamper the proper administration of justice:**
 - b in civil proceedings:**
 - iii to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;***
 - c in proceedings before courts concerning administrative matters:**
 - iii to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;***

329. The codes of judicial procedures provide that legal documents shall be submitted in the original. If the court does not understand the language in which a given legal document is drafted, it may, at its complete discretion, order a translation to be produced (Section 142 (3) of the Code of Civil Procedure). On the basis of a general reference to the Code of Civil Procedure, the other codes of procedure contain the same rule. The costs incurred for translation become part of the litigation costs. The Committee considers these undertakings fulfilled.

2 The Parties undertake:

- a not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language; or**

330. The validity of legal documents is not denied on the grounds that they have been drafted in Low German. The Committee considers that this undertaking is fulfilled.

Article 10 – Administrative authorities and public services

1 Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:

a v to ensure that users of regional or minority languages may validly submit a document in these languages;

331. The German Government has pointed to Section 23 of the *Land Administrative Procedure Act* and has informed the Committee that this act does not rule out the use of Low German. Furthermore, the Committee has been informed that documents drafted in Low German can be submitted in this language. However, the Committee lacks practical information to be able to conclude that this undertaking is fulfilled.

c to allow the administrative authorities to draft documents in a regional or minority language.

332. The Committee has been informed that documents, speeches, letters etc. are drafted in Low German within the *Land* administration and local administration. Furthermore, letters sent by citizens in Low German will be answered in Low German as far as possible. The Committee, however, considers that in order to make it clear to the speakers of Low German that they may submit requests in this language and to ensure that the public services concerned are aware of this, it would be advisable that corresponding instructions (or, where necessary, formal legal rules) are issued to the authorities and made public. The Committee considers that this undertaking is only formally fulfilled.

2 In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:

a the use of regional or minority languages within the framework of the regional or local authority;

333. The Committee has been informed that a wide range of initiatives in Mecklenburg-Western Pomerania are being pursued by the regional and local authorities. The Committee needs further information on how the authorities encourage the use of regional or minority languages within the framework of the regional or local authority.

b the possibility for users of regional or minority languages to submit oral or written applications in these languages;

334. The Committee has been informed that under Section 23 of the *Land Administrative Procedure Act*, Low German may be used for oral and written communications with local and regional authorities. The Committee therefore considers this undertaking fulfilled.

f the use by local authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;

335. In local and regional assemblies Low German is used by the councillors. In rural areas, the use of Low German is quite frequent. The Committee considers this undertaking fulfilled.

4 With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:

c compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed in the territory in which that language is used.

336. Reference is made to the fact that Low German is spoken throughout Mecklenburg-Western Pomerania. Account can be taken of individual proficiency in Low German, for example in the appointment of teachers, administrative employees, etc. The Committee however has received no information as to the policy of the authorities regarding requests from employees to be appointed in the territory in which their knowledge of Low German can be most useful.

Article 11 – Media

1 The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

b ii to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;

337. Radio programmes are regularly broadcast in Low German. The Committee considers that a commendable effort is made by public stations. However, taking into account the nature of the present option chosen by the Government, the Committee does not have any information as to measures of encouragement for the broadcasting of radio programmes in Low German by private stations. The Committee is therefore not in a position to conclude that this undertaking is fulfilled.

c ii to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;

338. According to the information received, no television programmes are broadcast in Low German on a regular basis. Taking into account the nature of the option chosen by the Government, the Committee does not have any information as to measures taken with a view to encouraging or facilitating the broadcasting of television programmes in Low German. The Committee therefore considers that this undertaking is not fulfilled.

d to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;

339. According to the information provided by the Government several projects for the promotion of Low German are carried out by audiovisual means. Both the production and distribution of audio and audio-visual works in Low German are facilitated. The Committee therefore considers this undertaking fulfilled.

e ii to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;

340. The Committee has been informed that daily newspapers, advertising papers and Sunday papers play an important role in the dissemination of Low German texts. A number of papers publish articles in Low German on a regular basis. However, the Committee would welcome further information on how the authorities are encouraging or facilitating the publication of newspaper articles in Low German on a regular basis. The Committee is therefore not in a position to conclude that this undertaking is fulfilled.

f ii to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;

341. The making and funding of audiovisual productions in the regional language of Low German can be applied for within the framework of project-oriented promotion. The Committee has been informed of several projects which have been financed through this system. The Committee considers this undertaking fulfilled.

- 2 The Parties undertake to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language, and not to oppose the retransmission of radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the freedom of expression and free circulation of information in the written press in a language used in identical or similar form to a regional or minority language. The exercise of the above-mentioned freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.**

342. Free reception of radio and television broadcasts from neighbouring countries is guaranteed by the Basic Law. Therefore, the Committee concludes that this undertaking is fulfilled.

Article 12 – Cultural activities and facilities

- 1 With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including inter alia the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:**

- a to encourage types of expression and initiative specific to regional or minority languages and foster the different means of access to works produced in these languages;**

343. According to the information provided by the German Government a wide variety of projects and institutions are supported on a broad scale. The effort made in this respect by Mecklenburg-Western Pomerania is commendable. The Committee considers this undertaking fulfilled.

- b to foster the different means of access in other languages to works produced in regional or minority languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;**

344. Translation projects are supported. However, the Committee has not been informed of any other activities concerning aid to develop dubbing, post-synchronisation and subtitling activities. The Committee therefore considers that this undertaking is fulfilled.

- c to foster access in regional or minority languages to works produced in other languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;**

345. The Committee has received information regarding translations of books and plays into Low German. However, the Committee has not been informed of any other activities concerning aid to develop dubbing, post-synchronisation and subtitling activities. The Committee therefore considers that this undertaking is partly fulfilled.

- d to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;**

346. Counselling is offered by the Low German Chairs of the Rostock and Greifswald Universities, by the *Volkskulturinstitut* (Institute of the *Kulturbund* for Folk Culture, Mecklenburg and Western Pomerania) in Rostock and, for several *Länder*, by the *Institut für Niederdeutsche Sprache* in Bremen. Furthermore, the criteria for membership in the *Kulturbeirat* (Cultural Consultative Council) of the Ministry of Education include proficiency in Low German. The Committee considers this undertaking fulfilled.

- e to promote measures to ensure that the bodies responsible for organising or supporting cultural activities have at their disposal staff who have a full command of the regional or minority language concerned, as well as of the language(s) of the rest of the population;**

347. Institutions for language-related and cultural work have at their disposal staff members having a command of Low German. Speakers of Low German are also represented in the *Landesarbeitskreis Kultur*, a joint body of *Land* Associations which every year prepare and organize the *Landeskulturtag* (*Land* Cultural Days) in Mecklenburg-Western Pomerania. The Committee considers this undertaking fulfilled.

- f to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;**

348. Representatives speaking Low German participate in the planning and co-ordination of *Land*-wide activities (e.g. Low German Competition, *Land* Cultural Days) and are represented at local and municipal jubilees. In 1999, the first *Land*-wide 'Low German Day' was organized at the initiative of the *Landesheimatverband Mecklenburg-Vorpommern e.V.* (Mecklenburg-Western Pomerania *Land* Union for Local and Regional Traditions). The Committee considers this undertaking fulfilled.

- h if necessary, to create and/or promote and finance translation and terminological research services, particularly with a view to maintaining and developing appropriate administrative, commercial, economic, social, technical or legal terminology in each regional or minority language.**

349. The aim to develop appropriate terminology is pursued in co-operation with the Low German Chairs of the Rostock and Greifswald Universities and with the *Institut für Volkskunde* (Institute of Folklore) of the Rostock University. Additional sources available are the *Mecklenburgisches Wörterbuch* (Mecklenburg Dictionary) and the *Pommersches Wörterbuch* (Pomeranian Dictionary). Help with translations and terminology is also provided by the *Volkskulturinstitut Mecklenburg und Vorpommern im Kulturbund e.V.* (Folk Culture Institute of the *Kulturbund*, Mecklenburg and Western Pomerania) and by the *Institut für niederdeutsche Sprache* (INS - Institute for the Low German Language) in Bremen. The Committee considers this undertaking fulfilled.

3 The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.

350. Within the framework of cultural exchanges with the Baltic Republics, the Scandinavian countries and Poland, folklore ensembles from the *Land* of Mecklenburg-Western Pomerania give performances abroad. In addition to presenting the customs and traditions as a part of the Low German culture, choral works and songs are also performed in Low German. However, according to the information received by the Committee, the federal authorities, in pursuing their cultural policy abroad, do not make any special provision for Low German culture in Mecklenburg-Western Pomerania. Thus the Committee considers this undertaking partly fulfilled.

Article 13 – Economic and social life

1 With regard to economic and social activities, the Parties undertake, within the whole country:

- a to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations;**

351. The Committee has not received any information pointing to the existence of legislation which prohibits or limits the use of the minority language and considers this obligation fulfilled.

b to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;

c to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;

352. The Committee has not received any information in this respect. These undertakings therefore cannot be considered as being fulfilled.

d to facilitate and/or encourage the use of regional or minority languages by means other than those specified in the above sub-paragraphs.

353. The Committee has not received any information aimed at facilitating and/or encouraging the use of regional or minority languages by means other than those specified in the above sub-paragraphs and is therefore not in a position to conclude that this undertaking is fulfilled.

2 With regard to economic and social activities, the Parties undertake, in so far as the public authorities are competent, within the territory in which the regional or minority languages are used, and as far as this is reasonably possible:

c to ensure that social care facilities such as hospitals, retirement homes and hostels offer the possibility of receiving and treating in their own language persons using a regional or minority language who are in need of care on grounds of ill-health, old age or for other reasons;

354. According to the information received by the Committee, Low German is used to a certain extent in social care facilities. However, this will depend on whether there are Low German speakers among the staff. The information provided does not allow the Committee to assess if this undertaking is fulfilled.

d. In Lower Saxony

Article 8 – Education

1 With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

a i to make available pre-school education in the relevant regional or minority languages; or
ii to make available a substantial part of pre-school education in the relevant regional or minority languages; or

iii to apply one of the measures provided for under i and ii above at least to those pupils whose families so request and whose number is considered sufficient; or

iv if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under i to iii above;

355. A model test (bilingualism in nursery schools) has been implemented in 36 nursery schools in the period 1997-2000. However, the Committee has not received any information about any planned activities in order to apply the measures envisaged under Article 8 para. 1(a)(iv). Therefore, the Committee considers the undertaking partly fulfilled.

- e ii to provide facilities for the study of these languages as university and higher education subjects; or***

356. Two major universities offer courses on Low German. The Committee considers this undertaking fulfilled.

- f iii if the public authorities have no direct competence in the field of adult education, to favour and/or encourage the offering of such languages as subjects of adult and continuing education;***

357. According to the information provided by the German Government, Low German is offered by various adult education centres in Ostfriesland. The Committee would welcome information concerning the situation in other areas of Lower Saxony.

- g to make arrangements to ensure the teaching of the history and the culture which is reflected by the regional or minority language;***

358. A wide variety of arrangements exist in this respect. The Committee considers this undertaking fulfilled.

- i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.***

359. A Working Group was established in 1997 and given the task of monitoring the proper implementation of the obligations under the Charter relevant for Lower Saxony. This Working Group is advised on the substance, form, time and addressees of regular publications on measures to introduce instruction in Low German. The Committee would welcome further information in the second periodical report concerning these publications, i.e. who is in charge of drafting them and their contents.

The Committee encourages the authorities to establish a supervisory body designed to monitor the measures taken in developing education in Low German in Lower Saxony and to draw up periodic reports.

Article 9 – Judicial authorities

- 1 The Parties undertake, in respect of those judicial districts in which the number of residents using the regional or minority languages justifies the measures specified below, according to the situation of each of these languages and on condition that the use of the facilities afforded by the present paragraph is not considered by the judge to hamper the proper administration of justice:***

- b in civil proceedings:***

- iii to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;***

- c in proceedings before courts concerning administrative matters:***

- iii to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;***

360. The codes of judicial procedures provide that legal documents shall be submitted in the original. If the court does not understand the language in which a given legal document is drafted, it may, at its complete discretion, order a translation to be produced (Section 142 (3) of the Code of Civil Procedure). On the basis of a general reference to the Code of Civil Procedure, the other codes of procedure contain the same rule. The costs incurred for translation become part of the litigation costs. The Committee considers these undertakings fulfilled.

2 The Parties undertake:

a not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language; or

361. The validity of legal documents is not denied on the grounds that they have been drafted in Low German. The Committee considers this undertaking fulfilled.

Article 10 – Administrative authorities and public services

1 Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:

a v to ensure that users of regional or minority languages may validly submit a document in these languages;

362. The German Government has informed the Committee that this provision became directly applicable in Lower Saxony following the entry into force of the Charter. The *Land* of Lower Saxony has expressly refrained from adopting any special administrative regulations in this respect, in order to “stem the flood of legal rules”. However, in the view of the Committee this provision is formulated in a way which would not make it self-executing. Furthermore, in order to make it clear to speakers of Low German that they may submit documents in this language and to ensure that the administration is aware of this, it would be advisable that instructions (or, where necessary, clear legal rules) are issued to the competent authorities and made public. The Committee considers that this undertaking is only formally fulfilled.

c to allow the administrative authorities to draft documents in a regional or minority language.

363. The considerations expressed above also apply here. Furthermore, the Committee considers that in order to make it clear to the competent administrative authorities that they may draft documents in Low German, it would be advisable that instructions (or, where necessary, clear legal rules) are issued to them and are made public. The Committee therefore considers that this undertaking is only formally fulfilled.

2 In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:

a the use of regional or minority languages within the framework of the regional or local authority;

364. The Committee has been informed that Low German is used to some extent within the administration. Furthermore, working panels dealing specifically with the implementation of Article 10 of the Charter have been set up. The Committee considers that the information above is not sufficient to assess whether and to what extent this provision is actually applied in practice. The Committee considers that in order to make it clear to the speakers of Low German that they may submit applications in this language and to ensure that the administration is aware of this, it would be advisable that corresponding instructions (or, where necessary, formal legal rules) are issued to the authorities and made public. The Committee considers that this undertaking is only formally fulfilled.

b the possibility for users of regional or minority languages to submit oral or written applications in these languages;

365. The German Government has informed the Committee that this provision is directly applicable. The Committee refers here to the general comments made under para. 362 above. Even assuming that no further legal acts may be required for its implementation, the Committee has not received any information as to what extent this provision is actually applied in practice. Furthermore, the Committee considers that in order to make it clear to the speakers of Low German that they may submit requests in this language and to ensure that the public services concerned are aware of this, it would be advisable that corresponding instructions (or, where necessary, formal legal rules) are issued to the authorities and made public. The Committee considers that this undertaking is only formally fulfilled.

c the publication by regional authorities of their official documents also in the relevant regional or minority languages;

d the publication by local authorities of their official documents also in the relevant regional or minority languages;

366. The German Government has informed the Committee that these provisions are directly applicable in Lower Saxony. The Committee refers here to the general comments made under para. 362 above. The Committee has not received any information of examples of the practical implementation of this provision or of the encouragement of such publications. The Committee is therefore not in a position to conclude whether or not these undertakings are fulfilled.

e the use by regional authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;

367. The Committee has not received any information. The Committee can therefore not conclude that this undertaking is fulfilled.

f the use by local authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;

368. The use of Low German is possible and according to the information given Council meetings are often held in Low German or are bilingual. The undertaking is fulfilled.

4 With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:

a translation or interpretation as may be required;

369. According to the information provided by the Government, the authorities also employ staff with a command of Low German and there has been no problem regarding translation or interpretation. The Committee considers this undertaking fulfilled.

c compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed in the territory in which that language is used.

370. The Committee has received no information as to the policy of the authorities regarding requests from employees to be appointed in the territory in which their knowledge of Low German can be most useful. It is therefore not in a position to conclude that this undertaking is fulfilled.

Article 11 – Media

1 The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

b ii to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;

371. Radio programmes in Low German are regularly broadcast. In particular, the Committee has been informed that the Lower Saxony *Land* Broadcasting Act states that the programmes of private broadcasters must make appropriate allowance for the regional languages used in Lower Saxony. Compliance with this requirement is monitored by a supervisory body. Furthermore, the *Land* supervisory authority for private broadcasters of Lower Saxony also supports non commercial local broadcasters and the “open channels”, which carry programmes focusing on regional and local matters. The Committee therefore considers this undertaking fulfilled.

372. The Committee also takes note of the information given concerning public radio programmes in Low German.

c ii to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;

373. According to the information provided, there is a bi-weekly ten-minute programme in Low German. In addition to this there are other programmes in Low German from time to time. Taking into account the nature of the option chosen by the Government, the Committee does not have any information as to measures with a view to encouraging the broadcasting of television programmes in Low German. The Committee therefore considers that this undertaking has only been partially fulfilled.

d to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;

374. Upon application, the *Land* of Lower Saxony grants subsidies to the production costs regarding audio and audiovisual productions in Low German. This provision is fulfilled.

e ii to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;

375. According to the information given, supraregional newspapers, but especially regional and local papers, contain several articles in Low German, in part as regular columns. On appropriate occasions, the *Land* Government makes appeals to include and present Low German also in press publications. These appeals are addressed both directly to the publishing houses and through the *Verband Nordwestdeutscher Zeitungsverleger* (Association of North West German Newspaper Publishers). The Committee considers this undertaking fulfilled.

f ii to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;

376. See para. 374 above. The Committee considers this undertaking fulfilled.

- 2 The Parties undertake to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language, and not to oppose the retransmission of radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the freedom of expression and free circulation of information in the written press in a language used in identical or similar form to a regional or minority language. The exercise of the above-mentioned freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.**

377. Free reception of radio and television broadcasts from neighbouring countries is guaranteed by the Basic Law. Therefore, the Committee concludes that this undertaking is fulfilled.

Article 12 – Cultural activities and facilities

- 1 With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including inter alia the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:**

- a to encourage types of expression and initiative specific to regional or minority languages and foster the different means of access to works produced in these languages;**

378. Several measures of encouragement have been taken. As an example, Low German literature can be included in all areas of the promotion of literature (promotion of production, distribution and reception) in the *Land* of Lower Saxony and the Ministry for Scientific and Cultural Affairs encourages events regarding Low German and organized by *Land*-subsidized institutions such as the *Literaterrat* (Literature Council) or the *Literaturbüros* (Literature Offices). This undertaking can be considered as being fulfilled.

- b to foster the different means of access in other languages to works produced in regional or minority languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;**

- c to foster access in regional or minority languages to works produced in other languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;**

379. As part of literature promotion, funds are available to translators for the translation of literary works - both into and from Low German. However, the Committee has not been informed of any other activities concerning aid to develop dubbing, post-synchronisation and subtitling activities. The Committee therefore considers that these undertakings are partially fulfilled.

- d to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;**

380. The Lower Saxony Ministry of Scientific and Cultural Affairs subsidizes the *Ostfriesische Landschaft* in Aurich. Its tasks refer both to the cultural sector and to science and education with a view to ensuring that Low German and its culture are taken into consideration in keeping with the accepted obligation. On the basis of this information, the Committee considers this undertaking fulfilled.

- e to promote measures to ensure that the bodies responsible for organising or supporting cultural activities have at their disposal staff who have a full command of the regional or minority language concerned, as well as of the language(s) of the rest of the population;**

381. The German Government has informed the Committee that the *Ostfriesische Landschaft* has staff members speaking Low German. That is also the case for other bodies organizing events, such as *Oostfreeske Taal* or *De Spieker, Heimatbund für niederdeutsche Kultur e.V.* (a local/ regional traditions association for Low German culture). The Committee considers this undertaking fulfilled.

- f to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;**

382. In respect of Lower Saxony the Government refers in particular to an event held in 1996 at the *Land* mission of Lower Saxony in Bonn and organized in co-operation with the associations mentioned in paragraphs 380 and 381 above. The Committee would welcome further information concerning the degree of direct participation by representatives of the users of Low German in Lower Saxony in providing facilities and planning cultural activities. On the basis of the information provided the Committee is not in a position to conclude whether this undertaking is fulfilled.

- g to encourage and/or facilitate the creation of a body or bodies responsible for collecting, keeping a copy of and presenting or publishing works produced in the regional or minority languages;**

383. The *Institut für niederdeutsche Sprache* (INS - Institute for the Low German Language) in Bremen, whose main tasks are the collection, classification and scholarly analysis of Low German linguistic material, is also subsidized by the *Land* of Lower Saxony. Both the *Staats- und Universitätsbibliothek* (State and University Library) in Göttingen and the library of Carl von Ossietzky University in Oldenburg have abundant holdings of Low German literature. In addition, the Municipal Libraries of the *Land* capital Hanover own the Börsmann Collection. The (*Land*-funded) library of *Ostfriesische Landschaft* also owns a collection of Low German literature. The Committee considers this undertaking fulfilled.

- 2 In respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage and/or provide appropriate cultural activities and facilities in accordance with the preceding paragraph.**

384. There is no information as to activities of the Government intended to encourage and/or provide appropriate cultural activities and facilities in the Southern part of Lower Saxony where Low German is traditionally not used.

- 3 The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.**

385. Cultural activities within the "*Neue Hanse Interregio*" (NHI), an association of the *Länder* of Bremen and Niedersachsen and the northern provinces of the Netherlands, include Low German. However, according to the information received by the Committee, the federal authorities, in pursuing their cultural policy abroad, do not make any special provision for Low German culture in the *Land* of Lower Saxony. Thus the Committee considers this undertaking partly fulfilled.

Article 13 – Economic and social life

1 With regard to economic and social activities, the Parties undertake, within the whole country:

a to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations;

386. The Committee has not received any information pointing to the existence of legislation which prohibits or limits the use of the minority language and considers this obligation fulfilled.

b to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;

c to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;

387. The Committee has not received any information in this respect. This undertaking therefore cannot be considered as being fulfilled.

d to facilitate and/or encourage the use of regional or minority languages by means other than those specified in the above sub-paragraphs.

388. The Committee has not received any information in this respect. This undertaking therefore cannot be considered as being fulfilled.

Article 14 – Transfrontier exchanges

The Parties undertake:

a to apply existing bilateral and multilateral agreements which bind them with the States in which the same language is used in identical or similar form, or if necessary to seek to conclude such agreements, in such a way as to foster contacts between the users of the same language in the States concerned in the fields of culture, education, information, vocational training and permanent education;

389. Assuming that the *Neue Hanse Interregio* (NHI) is based on an agreement in the sense of Article 14 (a), the Committee considers the undertaking fulfilled but would welcome further information in the context of the next periodical report.

b for the benefit of regional or minority languages, to facilitate and/or promote co-operation across borders, in particular between regional or local authorities in whose territory the same language is used in identical or similar form.

390. Taking account of the purposes and activities of the NHI and of the other activities of regional transborder co-operation, the Committee considers this provision fulfilled.

e. In Schleswig-Holstein

Article 8 – Education

1 With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

a i to make available pre-school education in the relevant regional or minority languages; or

- ii to make available a substantial part of pre-school education in the relevant regional or minority languages; or
- iii to apply one of the measures provided for under i and ii above at least to those pupils whose families so request and whose number is considered sufficient; or
- iv if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under i to iii above;**

391. The generation gap is very visible in the case of Low German but the recent efforts to promote this language have resulted in a growing interest for bilingual teaching. The Low German Centres established and financed by the *Land* in Leck (Schleswig) and Ratzeburg (Holstein), promote the teaching of Low German in pre-schools and provide for teacher-training. The existing bilingual pre-schools have had a wide acceptance and the demand from parents is increasing. Much is done on a voluntary basis by the parents, teachers and other “friends of Low German” to meet the needs. There are two Centres for Low German (in Leck and Ratzeburg) providing teacher training and assistance on the use of the immersion method by the educators in pre-schools. Many pre-schools have staff members who are proficient in Low German. Low German is offered in seven nurseries.

392. In some pre-schools, “adoptive parents” who speak Low German work with the children on a regular basis. During a recent meeting in Hamburg, the role of Low German in schools (teaching material, teacher-training, information exchange) was discussed by professionals of different *Länder*.

393. The Committee welcomes the efforts by Schleswig-Holstein and considers this undertaking fulfilled.

b iii to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or

394. According to the information provided by the German Government, there is no curriculum for Low German since Low German does not have the status of a classroom subject. The legal basis for the inclusion of Low German in school education is provided by the Decree on “*Niederdeutsch in der Schule*” (“Low German in school”) and by the common basic section of the curricula for all classroom subjects which states that Low German is a field of general importance. The curriculum applies to all primary schools. No statistics have been collected on the extent to which the curriculum is actually applied and much depends on the area (Low German is less present in urban areas) and on the demand by pupils. There are no general regulations defining the extent to which Low German must be offered in classroom instruction. Therefore, the extent to which the implementation of the Low German Framework Curriculum appeals to teaching of the Low German is unclear. Consequently, the Committee is not in a position to conclude that this undertaking is fulfilled.

c iii to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or

395. According to the information given, the curricula which entered into force on 1 August 1997 establish Low German as a task area of general education. Furthermore, various subject-specific curricula (German, history, etc.) explicitly include Low German. However, no information has been provided as to how many secondary schools actually teach Low German within regular school hours. The Committee can therefore not conclude that the undertaking is fulfilled.

e ii to provide facilities for the study of these languages as university and higher education subjects; or

396. According to the information given, the Universities in Kiel and Flensburg offer courses in Low German. The Committee considers this undertaking fulfilled.

f iii if the public authorities have no direct competence in the field of adult education, to favour and/or encourage the offering of such languages as subjects of adult and continuing education;

397. More than forty adult education centres offer Low German courses. The Committee considers this undertaking fulfilled.

g to make arrangements to ensure the teaching of the history and the culture which is reflected by the regional or minority language;

398. The “German” curriculum of publicly maintained schools provides such arrangements. The Committee considers this undertaking fulfilled.

h to provide the basic and further training of the teachers required to implement those of paragraphs a to g accepted by the Party;

399. Basic teacher-training covers Low German. Furthermore, two centres offer further training in Low German. The Committee considers this undertaking fulfilled.

i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.

400. Two centres have been established to support education in Low German, but they do not actually play the role of supervisory bodies. Beside these centres, general school authorities exist. There is, however, no supervisory body specifically entrusted with the task of monitoring the measures taken and the progress achieved in developing the teaching of Low German, nor are there any public reports on the findings of such a body. The Committee therefore concludes that the obligation is not fulfilled.

The Committee encourages the authorities to establish a supervisory body designed to monitor the measures taken in developing education in Low German in Schleswig-Holstein and to draw up periodic reports.

2 *With regard to education and in respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage or provide teaching in or of the regional or minority language at all the appropriate stages of education.*

401. The Committee has not been made aware of any measures on the part of the German authorities in this respect.

Article 9 – Judicial authorities

1 *The Parties undertake, in respect of those judicial districts in which the number of residents using the regional or minority languages justifies the measures specified below, according to the situation of each of these languages and on condition that the use of the facilities afforded by the present paragraph is not considered by the judge to hamper the proper administration of justice:*

b in civil proceedings:

iii to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;

c in proceedings before courts concerning administrative matters:

iii to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;

402. The codes of judicial procedures provide that legal documents shall be submitted in the original. If the court does not understand the language in which a given legal document is drafted, it may, at its complete discretion, order a translation to be produced (Section 142 (3) of the Code of Civil Procedure). On the basis of a general reference to the Code of Civil Procedure, the other codes of procedure contain the same rule. The costs incurred for translation become part of the litigation costs. The Committee considers these undertakings fulfilled.

2 The Parties undertake:

a not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language; or

403. The validity of legal documents is not denied on the grounds that they have been drafted in Low German. The Committee considers this undertaking fulfilled.

Article 10 – Administrative authorities and public services

1 Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:

a v to ensure that users of regional or minority languages may validly submit a document in these languages;

404. According to the information provided by the German Government, the legal basis of this obligation by the *Land* of Schleswig-Holstein is Section 82a, para. 2, of the *Land Administration Act*. This regulation provides for the general possibility to submit applications, petitions, etc., in a “foreign language”. On the basis of the information given, the Committee has formed the opinion that in the view of the *Land* the term German language also covers Low German. However, the Committee lacks practical information to be able to conclude that this undertaking is fulfilled.

c to allow the administrative authorities to draft documents in a regional or minority language.

405. The Committee considers that in order to make it clear to the speakers of Low German that they may submit applications in this language and to ensure that the administration is aware of this, it would be advisable that corresponding instructions (or, when necessary, formal legal rules) are issued to the authorities and made public. The Committee considers that this undertaking is only formally fulfilled.

2 In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:

a the use of regional or minority languages within the framework of the regional or local authority;

406. There is a will to improve the situation concerning multilingualism within the administration and several measures have already been taken. The municipality bears the costs of language courses that are proposed to staff members, especially to those whose work implies activities within the cultural field. The practice of putting signs on the doors showing the language competences of the civil servants of the municipality has also been introduced (there are presently 58 signs for Low German). However, competences in minority languages are not among the criteria that are taken into consideration by the municipality when recruiting its staff. The status of Low German has considerably improved in recent years, as it is no longer perceived as the “rural areas language”. Some measures are contributing to this phenomenon. They may be of a practical nature (such as door-signs) or purely symbolic (for instance, the stamp of the letters of the *Land’s* Minister-President contains a sentence in Low German). The Committee considers this undertaking fulfilled.

b the possibility for users of regional or minority languages to submit oral or written applications in these languages;

407. The Committee considers that in order to make it clear to the speakers of Low German that they may submit requests in this language and to ensure that the public services concerned are aware of this, it would be advisable that corresponding instructions (or, where necessary, formal legal rules) are issued to the authorities and made public. The Committee considers that this undertaking is only formally fulfilled.

f the use by local authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;

408. There seems to be a practice to the effect that debates can take place in Low German insofar as nobody objects to this. According to the information given, Low German is used from time to time in meetings of the local authorities. In these conditions this obligation can be considered as being fulfilled.

4 With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:

c compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed in the territory in which that language is used.

409. An announcement to this effect was made at the *Personalreferentenkonferenz* (PRK - Conference of Personnel Officers). If a staff member within the *Land* Administration expresses a wish regarding such an appointment, the scope for complying with the request will be examined. While acknowledging the positive approach of the authorities, the Committee has not received any information on a positive practice or a structural approach with regard to this undertaking. Therefore, the information provided does not make it possible to conclude that this undertaking is fulfilled.

Article 11 – Media

1 The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

b ii to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;

410. Radio programmes in Low German are regularly broadcast on the basis of legal regulations governing the radio sector. Furthermore the minister-president of the *Land* has encouraged the radio broadcasters to take initiatives wherever possible with a view to reflecting the linguistic situation in the *Land*, i.a. the strong presence of Low German speakers. The Committee considers this undertaking fulfilled.

c ii to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;

411. The Committee notes that television programmes in Low German have been decreasing. At present, the only remaining television programme is one based on interviews broadcast every four weeks. The Committee is not aware of any active measures to facilitate the broadcasting of television programmes in Low German. The undertaking does not seem to be fulfilled.

The authorities are encouraged to take positive measures to encourage and/or facilitate the broadcasting of television programmes in Low German.

d to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;

412. Productions in Low German can receive financial support. Promotional and subsidising schemes are available for audiovisual works in Low German. The Committee considers this undertaking fulfilled.

e ii to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;

413. According to the information provided by the Government, articles in Low German appear regularly in the printed media. Furthermore, the minister-president of the *Land* in a letter to the Schleswig-Holstein Association of Newspaper Publishers has encouraged the integration of "linguistic particularities ... determining the specificity of the *Land*". According to users of Low German, however, the articles in Low German actually appearing in the press do not contribute to raising the profile of this language, as they are usually limited to humoristic comments or to matters without importance. A more serious magazine was launched but the acceptance was not as wide as expected (probably due to a lack of quality) and it disappeared. It can be considered that this undertaking is fulfilled although there seems to be scope for further action from the *Land* authorities.

f ii to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;

414. Productions in Low German can receive financial support. Existing schemes for promoting and subsidising are available, i.a. for audiovisual productions, in Low German. The Committee considers this undertaking formally fulfilled and would welcome examples of cases where financial assistance has been provided to works in Low German.

2 The Parties undertake to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language, and not to oppose the retransmission of radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the freedom of expression and free circulation of information in the written press in a language used in identical or similar form to a regional or minority language. The exercise of the above-mentioned freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

415. Free reception of radio and television broadcasts from neighbouring countries is guaranteed by the Basic Law. Therefore, the Committee concludes that this undertaking is fulfilled.

Article 12 – Cultural activities and facilities

1 With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including inter alia the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:

a to encourage types of expression and initiative specific to regional or minority languages and foster the different means of access to works produced in these languages;

416. A number of institutions and associations active in the field are regularly sponsored. The Committee considers this undertaking fulfilled.

b to foster the different means of access in other languages to works produced in regional or minority languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;

417. Low German institutions can use promotional funds provided by Schleswig-Holstein *Land* for the translation, dubbing, post-synchronization and subtitling of works into, or in, Low German. The Committee would welcome further information concerning specific steps taken by the authorities in this area.

c to foster access in regional or minority languages to works produced in other languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;

418. See para. 417 above. It can be added that the *Institut für Niederdeutsche Sprache* (INS - Institute for the Low German Language) in Bremen, which is subsidized also by the *Land* of Schleswig-Holstein, published a Standard German/Low German Dictionary. The Committee would welcome further information concerning specific steps taken by the authorities in this area.

d to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;

419. With subsidies provided by Schleswig-Holstein, the institutions of the speakers of Low German ensure that appropriate provision is made for incorporating the knowledge and use of the Low German language and culture in their cultural activities. The Committee assumes that this situation is in line with the requirements of this undertaking but would welcome more detailed information on the institutions and their activities.

f to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;

420. An association which supports Low German has been given the functions of the executive secretariat of a major Low German cultural event. The Committee would welcome further information concerning the degree of direct participation by representatives of the users of Low German in Schleswig-Holstein in providing facilities and planning cultural activities. On the basis of the information provided the Committee is not in a position to conclude whether this undertaking is fulfilled.

g to encourage and/or facilitate the creation of a body or bodies responsible for collecting, keeping a copy of and presenting or publishing works produced in the regional or minority languages;

421. Schleswig-Holsteinische Landesbibliothek is in charge of this task. This undertaking is therefore fulfilled.

3 The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.

422. Low German is reflected in many ways in the cultural foreign policy of the *Land*. For example, the *Land* authorities have carried out projects aimed at furthering ties and developing cultural activities with the descendants of the immigrants who settled in the Americas and who still speak German/Low German. However, according to the information received by the Committee, the federal authorities, in pursuing their cultural policy abroad, do not make any special provision for Low German culture in Schleswig-Holstein. Thus the Committee considers this undertaking partly fulfilled.

Article 13 – Economic and social life

1 With regard to economic and social activities, the Parties undertake, within the whole country:

a to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations;

423. The Committee has not received any information pointing to the existence of legislation which prohibits or limits the use of the minority language and considers this obligation fulfilled.

b to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;

c to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;

424. The Committee has not received any information in this respect. This undertaking can therefore not be considered as being fulfilled.

d to facilitate and/or encourage the use of regional or minority languages by means other than those specified in the above sub-paragraphs.

425. The Committee has not received any information in this respect. This undertaking can therefore not be considered as being fulfilled.

2 With regard to economic and social activities, the Parties undertake, in so far as the public authorities are competent, within the territory in which the regional or minority languages are used, and as far as this is reasonably possible:

c to ensure that social care facilities such as hospitals, retirement homes and hostels offer the possibility of receiving and treating in their own language persons using a regional or minority language who are in need of care on grounds of ill-health, old age or for other reasons;

426. The Committee has been informed that in such social care facilities there are staff members who have a command of Low German. According to the Government there have so far not been any cases of suggesting the necessity to provide staff with a command of Low German systematically. However, in the view of the Committee, such a systematic approach is necessary to fulfil the undertaking, which accordingly cannot be considered as fulfilled.

2.3.5 Upper Sorbian

Article 8 –Education

1 With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each these languages, and without prejudice to the teaching of the official language(s) of the State:

- a i to make available pre-school education in the relevant regional or minority languages, or**
- ii to make available a substantial part of pre-school education in the relevant regional or minority languages, or**
- iii to apply one of the measures provided for under i and ii above at least to those pupils whose families so request and whose number is considered sufficient.**

427. Under the existing system of pre-school education, if there are a certain number of parents wishing to set up a pre-school institution in Upper Sorbian, the authorities are obliged, after a certain period, to support the institution. In the core language area, the pre-school institutions are predominantly run in Upper Sorbian. In other parts of the traditional speech area, pre-school institutions take part in the Witaj project. In Saxony, 12 day-care centres run under the Witaj project. The Witaj project pursues a bilingual approach for children in nurseries and plays a very important role in the improvement of the presence of Sorbian in pre-schools. It has been very successful, despite the generation gap, but it is nevertheless facing difficulties due to the lack of resources and qualified teachers. The first eight “Witaj children” have now reached primary school. In addition to the Witaj nurseries, there are 13 German–Sorbian day care centres, and 54 day-care centres which maintain the Sorbian culture.

428. The Committee acknowledges the efforts made by the authorities to support pre-school in Upper Sorbian but is concerned by the lack of resources and of trained teachers that may jeopardize the fulfilment of the obligation.

The Committee encourages the establishment of a legal framework and the allocation of adequate resources to secure the implementation of this undertaking.

- b i to make available primary education in the relevant regional or minority languages; or**
- ii to make available a substantial part of primary education in the relevant regional or minority languages; or**
- iii to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or**
- iv to apply one of the measures provided for under i to iii above at least to those pupils whose families so request and whose number is considered sufficient;**

429. Upper Sorbian is taught as a mother tongue at six elementary schools, at four as a secondary language (i.e. for pupils from bilingual families or from a bilingual setting), and at another twenty-nine as a foreign language (i.e. for pupils from German-speaking families or from a German-speaking setting in the Sorbian settlement area). The teaching material available for primary schools is very rich and renewed constantly. The system seems to function well in the core language area. However, in the surrounding areas, there seem to be no guarantees to provide education in Upper Sorbian for families who so wish. In particular, there is no systematic follow-up for pupils completing pre-school education within the Witaj project. The Committee considers that the obligation is thus only partly fulfilled.

The authorities are encouraged to ensure that pupils who have completed their pre-school education within the Witaj project are given the possibility to continue to have an education in Upper Sorbian.

- c**
 - i** to make available secondary education in the relevant regional or minority languages; or
 - ii** to make available a substantial part of secondary education in the relevant regional or minority languages; or
 - iii** to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or
 - iv** to apply one of the measures provided for under *i to iii* above at least to those pupils who, or where appropriate whose families, so wish in a number considered sufficient;

430. There are six Upper Sorbian technical secondary schools. Four of these schools have classes with either Upper Sorbian as mother tongue or Upper Sorbian as a second language. Sorbian is also offered as a foreign language in six other schools. *The Sorbisches Gymnasium* in Bautzen provides complete linguistic education in Upper Sorbian. In addition, two grammar schools within the area of the Bautzen Regional Education Office offer language instruction in Upper Sorbian as a foreign language. Overall, Upper Sorbian instruction, including Upper Sorbian as an encounter language, was given at 50 schools in Saxony in the 1999-2000 school year. However, there is a lack of material covering several subjects of secondary education.

431. The traditional Sorbian territory has seen a drastic decrease of population (50%) over the last decade. This has had repercussions on the education system. More than 300 schools have had to be closed over the last three years and many teachers have lost their jobs or had to work only part-time. The Committee is aware of the efforts made by the authorities to grant exceptions to usual minimum numbers. The recent closing of a Sorbian class in Crostwitz was the subject of much debate. The Ministry of Culture decided to close a five grade class at "Jury Chezka" secondary school on the grounds that the legally fixed number of twenty pupils would not be reached, although seventeen pupils registered. The authorities have pointed out that due to the demographic change there is a need to rationalise the existing resources. The Committee is concerned that this type of rationalisation of resources tends to have a greater impact on minority languages than on majority languages and encourages the authorities to take this into consideration.

432. Generally the Committee has observed in most other State parties to the Charter a lower minimum number applied to education in regional or minority languages than the minimum number applied to majority languages. The German authorities might consider introducing similar schemes in Germany. The Committee considers that the adoption of the same numerical criteria for minority languages as for official languages does not always lead to the best results and encourages the authorities to continue with the flexible approach in implementing legal requirements. The Committee considers that under the present circumstances this obligation is fulfilled.

- d**
 - i** to make available technical and vocational education in the relevant regional or minority languages; or
 - ii** to make available a substantial part of technical and vocational education in the relevant regional or minority languages; or
 - iii** to provide, within technical and vocational education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or
 - iv** to apply one of the measures provided for under *i to iii* above at least to those pupils who, or where appropriate whose families, so wish in a number considered sufficient;

433. At present, only the Bautzen *Sorbische Fachschule für Sozialpädagogik* offers the education provided for under Article 8.1.d. There seems to be no teaching of Upper Sorbian in the other technical or vocational institutions relating to professions or vocations other than social work. The obligation has been only partly fulfilled.

e ii to provide facilities for the study of these languages as university and higher education subjects;

434. The university of Leipzig offers Sorbian Studies. The activities of the Institute of Sorabistic studies are traditionally concentrated on Upper Sorbian language and culture. The Committee considers this undertaking fulfilled.

f iii if the public authorities have no direct competence in the field of adult education, to favour and/or encourage the offering of such languages as subjects of adult and continuing education;

435. According to the Government, courses in Sorbian are offered by the adult education centres in the Sorbian area and, upon request, they are subsidized by the Foundation for the Sorbian People. The Committee considers this undertaking fulfilled.

g to make arrangements to ensure the teaching of the history and the culture which is reflected by the regional or minority language;

436. The German Government has informed the Committee that according to Section 2 of the Saxon Schools Act, culture and history of the Sorbian people have been included in the school curricula. The Committee considers this undertaking fulfilled.

h to provide the basic and further training of the teachers required to implement those of paragraphs a to g accepted by the Party;

437. There seems to be a shortage of trained teachers in Upper Sorbian. There exists an offer for basic training of teachers at the University of Leipzig, but few students enrol in that programme. However, the Committee is aware of the efforts being made by the authorities to recruit students in this field. Regarding further teacher-training, some courses exist, but they have to be followed outside normal working hours. The question of teacher-training is a good example of the lack of consistency in the language policy of the different authorities. Although there is a lack of qualified teachers and in spite of the efforts and resources invested to train a few of them, their qualifications in Upper Sorbian are not taken into consideration for the purposes of recruitment or when teachers have to be made redundant. The employment office does not offer Upper Sorbian training courses for teachers nor does it support attendance of such courses. The undertaking is fulfilled regarding basic training but more efforts are needed to provide further training of teachers.

The authorities are encouraged to take the necessary measures in order to provide further training of teachers.

i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.

438. According to the information gathered by the Committee, there is no supervisory body specifically entrusted with the task of monitoring the measures taken and the progress achieved in developing the teaching of Low German, nor are there any public reports on the findings of such a body. The Committee therefore concludes that the obligation is not fulfilled.

The Committee encourages the authorities to establish a supervisory body designed to monitor the measures taken in developing education in Upper Sorbian and to draw up periodic reports.

- 2 With regard to education and in respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage or provide teaching in or of the regional or minority language at all the appropriate stages of education.**

439. The Committee is aware of the existence of certain courses arranged by Sorbisches Kultur und Informationzentrum in Berlin. However, given the high rate of internal migration of Upper Sorbian speakers to large cities outside their traditional speech area, the Committee has noted that no teaching in or of Upper Sorbian at all appropriate stages of education is provided for outside the speech area. The Committee does not have sufficient information to conclude that this undertaking is fulfilled.

Article 9 – Judicial authorities

- 1 The Parties undertake, in respect of those judicial districts in which the number of residents using the regional or minority languages justifies the measures specified below, according to the situation of each of these languages and on condition that the use of the facilities afforded by the present paragraph is not considered by the judge to hamper the proper administration of justice:**

a in criminal proceedings:

ii to guarantee the accused the right to use his/her regional or minority language; and/or

iii to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language; and/or

if necessary by the use of interpreters and translations involving no extra expense for the persons concerned ;

b in civil proceedings:

ii to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; and/or

iii to allow documents and evidence to be produced in the regional or minority languages,

if necessary by the use of interpreters and translations;

440. The codes of judicial procedures provide that legal documents shall be submitted in the original. If the court does not understand the language in which a given legal document is drafted, it may, at its complete discretion, order a translation to be produced (Section 142 (3) of the Code of Civil Procedure). On the basis of a general reference to the Code of Civil Procedure, the other codes of procedure contain the same rule. Documents and evidence drafted in Upper Sorbian are allowed. The costs incurred for translation become part of the litigation costs, the only exception being the social court, where payment is never required.

441. These undertakings are rarely put into practice owing to implementation obstacles. There is a lack of a dictionary specialising in terms used within the judicial system and of staff competent to use Upper Sorbian.

442. Although the use of Upper Sorbian is a legally secured right in court procedures, there are too many obstacles to rely on Sorbian in reality. The speakers of Upper Sorbian are bilingual, they speak German to accelerate the procedures and to avoid being seen as “trouble-makers”. Judges are not encouraged to speak Upper Sorbian, and knowledge of it is not seen as an advantage. The problem is the lack of implementation or encouraging measures. The status of Upper Sorbian as a private-life language has made its effective official use in court procedures very difficult. There are no special courses for civil servants, who are not even encouraged to attend the adult courses offered by the *Volkhochschule*, for instance.

443. The Committee considers that these undertakings are formally fulfilled.

c in proceedings before courts concerning administrative matters:

ii to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; and/or

iii to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;

444. The same findings as under paragraphs 440-443 above also apply here and the Committee therefore considers that this undertaking is formally fulfilled.

d to take steps to ensure that the application of sub-paragraphs i and iii of paragraphs b and c above and any necessary use of interpreters and translations does not involve extra expense for the persons concerned.

445. The Committee has been informed that the costs incurred for any required services of interpreters or translators are part of the regular costs of the proceedings and thus are not charged as an extra item. The Committee considers this undertaking fulfilled.

2 The Parties undertake:

a not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language;

446. The Committee has been informed that no provision of law excludes the validity of documents drawn up in Upper Sorbian. Although the use of documents in Sorbian seems to be almost non-existent, the Committee nevertheless concludes that the undertaking is formally fulfilled.

The authorities are encouraged to take positive measures aimed at encouraging and facilitating the use of Upper Sorbian in court procedures.

Article 10 – Administrative authorities and public services

1 Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:

a iv to ensure that users of regional or minority languages may submit oral or written applications in these languages; or

v to ensure that users of regional or minority languages may validly submit a document in these languages;

2 In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:

a the use of regional or minority languages within the framework of the regional or local authority;

447. The legal framework, namely Sections 9 and 11 of the Saxon Sorbs Act, provides for the general possibility to use Upper Sorbian in dealings with administrative authorities. However, in reality there are too many obstacles for this to be operational. The speakers of Sorbian are bilingual, they speak German to accelerate the procedures and to avoid being seen as “trouble-makers”. Staff in public services are not encouraged to speak Sorbian, and knowledge of it is not seen as an advantage.

448. In each municipality, there is a representative of the Sorbian Council. However, the Committee has not been informed of any encouragement for other employees to learn Sorbian. The lack of trained teachers would also make the organisation of language courses difficult. The existing legislative framework, in principle very favourable to the use of Sorbian in justice and administration, is not operational because of the lack of implementation or encouraging measures. The lack of staff with a command of Sorbian in those fields and the absence of practical measures encouraging the use of Sorbian have contributed to a situation where Sorbian is practically excluded from administrative life.

449. The Committee considers that in practice the implementation of the above provisions is not actually encouraged. The undertakings are only formally fulfilled.

b the possibility for users of regional or minority languages to submit oral or written applications in these languages;

450. This undertaking seems to be implemented in the core area. In particular, the Committee has been informed that in each municipality there is a representative of the Sorbian Council who may act as a facilitator. However, no information regarding implementation outside the core area has been received by the Committee. Therefore, the Committee considers this undertaking fulfilled in the core area but is not in a position to conclude that the undertaking is fulfilled outside the core area.

g the use or adoption, if necessary in conjunction with the name in the official language(s), of traditional and correct forms of place-names in regional or minority languages.

451. Local and regional authorities allow the use of place names in Lower Sorbian. Municipalities which fall under the category of “municipality within the traditional settlement area” are obliged to use bilingual signs to identify places, streets, bridges, public buildings and institutions. However, the municipalities have the possibility to avoid being included in this category. Since the municipalities must bear the extra-costs of bilingual signs, municipalities are not encouraged to become a part of the Sorbian area as defined by section 3, par 2 of the Sorben (Wenden)- Gesetz. The Committee underlines that the implementation of this undertaking might be hampered by the obstacles mentioned. Therefore, the Committee considers this undertaking fulfilled but encourages the authorities to take positive steps to facilitate the implementation of this provision.

3 With regard to public services provided by the administrative authorities or other persons acting on their behalf, the Parties undertake, within the territory in which regional or minority languages are used, in accordance with the situation of each language and as far as this is reasonably possible:

b to allow users of regional or minority languages to submit a request and receive a reply in these languages; or

452. In its initial report the Government admits that even where staff of regional and local authorities are proficient in Sorbian, this opportunity is seldom used by the Sorbian-speaking population. In fact, the latter prefers to use German in order to avoid any misunderstandings in the dealings with the administration. However, no measures appear to have been taken with a view to encouraging the Sorbian speakers to overcome such hesitations. The Committee considers this undertaking only formally fulfilled.

The authorities are encouraged to launch measures to facilitate the use of Upper Sorbian in administrative procedures.

c to allow users of regional or minority languages to submit a request in these languages.

453. This obligation is included in paragraph 3 and the Charter provides that it may be chosen as an alternative to the other options of Article 10.3 but not in addition to them. It is therefore redundant to the undertakings of Germany.

4 With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:

c compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed in the territory in which that language is used.

454. The *Land* Government and *Land* Administration have striven to meet any wishes expressed by *Land* public officials with regard to their employment. The Committee has been assured that there has never been a case of non-compliance with a request from a public official having a command of the Sorbian/Wendish language to be appointed in the traditional settlement area of the Sorbian people. However, so far no pertinent *Land* legislation has been enacted. In any event, the information available to the Committee is not sufficient to conclude that this undertaking is fulfilled.

5 The Parties undertake to allow the use or adoption of family names in the regional or minority languages, at the request of those concerned.

455. The Committee has been informed that under German law persons may assume the minority-language version of their names by making a declaration before the Registrar. The Committee considers this undertaking fulfilled.

Article 11 – Media

1 The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

b ii to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;

456. There are frequent transmissions of radio programmes in Upper Sorbian on public service broadcasting. The Committee considers that a commendable effort is made in the public sector. However, taking into account the nature of the option chosen by the Government, the Committee does not have any information as to measures of encouragement for the broadcasting of radio programmes in Upper Sorbian by private stations. The Committee is therefore not in a position to conclude that this undertaking is fulfilled.

c ii to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;

457. Some television programmes are transmitted in Upper Sorbian on public service broadcasting. However, the Committee has received insufficient information to be able to conclude that the undertaking is fulfilled with regard to private television programmes.

d to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;

458. The Committee has been informed that there is production and distribution of videos, music and cassettes in Sorbian, facilitated by public funding through the Foundation for the Sorbian People, which is a public body. The Committee considers this undertaking fulfilled.

e i to encourage and/or facilitate the creation and/or maintenance of at least one newspaper in the regional or minority languages; or

459. There are a number of newspapers published in Upper Sorbian, which are supported through public funding. The Committee considers this undertaking fulfilled.

f ii to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;

460. A scheme exists but it is not clear whether it also applies to Upper Sorbian. The Committee considers this undertaking formally fulfilled and would welcome examples of cases where financial assistance has been provided to audiovisual productions in Upper Sorbian.

2 The Parties undertake to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language, and not to oppose the retransmission of radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the freedom of expression and free circulation of information in the written press in a language used in identical or similar form to a regional or minority language. The exercise of the above-mentioned freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

461. The Basic Law guarantees freedom of information, including the free reception of radio and television broadcasts from the neighbouring countries. In particular, according to the information provided by the Government, Polish and Czech radio and television broadcasts can be received in the Sorbs' settlement areas within the limits of technical feasibility (in fact, such areas are close to the borders with Poland and the Czech Republic and Sorbian, as a Slavic language, is related to Polish and Czech). The Committee considers this undertaking fulfilled.

Article 12 – Cultural activities and facilities

1 With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including inter alia the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:

a to encourage types of expression and initiative specific to regional or minority languages and foster the different means of access to works produced in these languages;

- b to foster the different means of access in other languages to works produced in regional or minority languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;**
- c to foster access in regional or minority languages to works produced in other languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;**
- d to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;**
- e to promote measures to ensure that the bodies responsible for organising or supporting cultural activities have at their disposal staff who have a full command of the regional or minority language concerned, as well as of the language(s) of the rest of the population;**
- f to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;**
- g to encourage and/or facilitate the creation of a body or bodies responsible for collecting, keeping a copy of and presenting or publishing works produced in the regional or minority languages;**
- h if necessary, to create and/or promote and finance translation and terminological research services, particularly with a view to maintaining and developing appropriate administrative, commercial, economic, social, technical or legal terminology in each regional or minority language.**

462. According to the initial periodical report, the two *Länder* concerned with the protection of Sorbian (the Free State of Saxony for Upper Sorbian and the *Land* of Brandenburg for Lower Sorbian) pursue a common promotion policy through the Foundation for the Sorbian People (whose staff has a command of the Sorbian language). The Foundation subsidizes the German-Sorbian Folk Theatre (*Deutsch-Sorbisches Volkstheater*), promotes the organisation of traditional festivals by Sorbian associations and supports the *Domowina* Publishing House. Furthermore, the Sorbian Institute (*Sorbisches Institut*) aims at preserving the linguistic heritage but also developing the contemporary Sorbian language (namely by providing for the translatability of Sorbian texts, as regards also technical terms in various fields). Finally, under the *Saxon Sorbs Act* and the *Brandenburg Act on the specification of the Rights of the Sorbs (Wends)*, the local authorities are required to take account of the Sorbian language and culture in their cultural policy/project planning. The Committee considers these obligations fulfilled.

- 2 In respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage and/or provide appropriate cultural activities and facilities in accordance with the preceding paragraph.**

463. The Committee has not received sufficient information to be able to conclude that the present undertaking is fulfilled.

- 3 The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.**

464. According to the information received by the Committee, the *Land* authorities include Sorbian when pursuing their cultural policy abroad. However, according to the information received by the Committee, the federal authorities, in pursuing their cultural policy abroad, do not make any special provision for Upper Sorbian. Thus the Committee considers this undertaking partly fulfilled.

Article 13 – Economic and social life

1 With regard to economic and social activities, the Parties undertake, within the whole country:

a to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations;

465. The Committee has not received any information indicating the existence of legislation which prohibits or limits the use of the minority language and considers this obligation fulfilled.

c to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;

466. The Committee has not been informed of any policies designed to discourage the use of regional or minority languages in connection with economic or social activities, although it is well aware of the current debate on this issue. However, in the present conditions the Committee cannot conclude that this undertaking is fulfilled.

d to facilitate and/or encourage the use of regional or minority languages by means other than those specified in the above sub-paragraphs.

467. The Committee has not received sufficient information which allows to conclude that this undertaking is fulfilled.

2 With regard to economic and social activities, the Parties undertake, in so far as the public authorities are competent, within the territory in which the regional or minority languages are used, and as far as this is reasonably possible:

c to ensure that social care facilities such as hospitals, retirement homes and hostels offer the possibility of receiving and treating in their own language persons using a regional or minority language who are in need of care on grounds of ill-health, old age or for other reasons;

468. One Sorbian hospital providing 80% of its services in Upper Sorbian had to be closed. Part of its services were transferred to another bigger hospital. The share of services provided in Sorbian could be estimated at 50%. This case represents however an exception, as the availability of services in Upper Sorbian very much depends on chance, and not on a special policy. The traditional “Sorbian” institutions maintain their status quo. In the other institutions, the recruitment of bilingual staff is not pursued expressly by social care facilities. The obligation is thus only partly fulfilled.

The Committee encourages the authorities to take the necessary measures to increase and make more systematic the possibility for the persons concerned to be received and treated in Upper Sorbian in social care facilities. This may include a bilingual human resources policy.

2.3.6. Lower Sorbian in the Lower Sorbian language area in Brandenburg

Article 8 – Education

1 With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

a i to make available pre-school education in the relevant regional or minority languages; or

- ii to make available a substantial part of pre-school education in the relevant regional or minority languages; or
- iii to apply one of the measures provided for under i and ii above at least to those pupils whose families so request and whose number is considered sufficient; or
- iv *if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under i to iii above;*

469. In twelve day-care centres within the Witaj programme, a priority activity is the imparting of Lower Sorbian and in other centres Lower Sorbian is used as a part of the activity. The Witaj programme has been very successful and parents' demand is increasing, but financial constraints are creating difficulties. There is also a lack of teaching materials. In pre-schools, the presence of Lower Sorbian very much depends on the motivation of the parents, teachers and schools. Since 1998, part of the efforts in the field of education are concentrated on the Witaj project, which has proved to be very successful in spite of the generation gap in the use of the language. The project started with 19 pre-school children and embraces today 55 pupils and a waiting list of 30 children. In 2002, for the first time an existing German nursery school will start a Witaj project to progressively become a Lower Sorbian nursery school. In the origins of Witaj, the municipalities funded the small classes run by the project. Nowadays, these classes have become very large and the authorities do not pay for all the children. Pre-schools are the responsibility of the municipalities, but are financed by different sources, depending on the institution and the programme run. It would be necessary to secure a common budgetary framework for all pre-schools. The Committee appreciates the efforts made to make available pre-school education in Lower Sorbian but realizes that more financial support is needed to the complete fulfilment of the obligation. The Committee considers that the undertaking is partly fulfilled.

The Committee encourages the establishment of a legal framework and the allocation of adequate resources to secure the implementation of this undertaking.

- b
 - i to make available primary education in the relevant regional or minority languages; or
 - ii to make available a substantial part of primary education in the relevant regional or minority languages; or
 - iii to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or
 - iv ***to apply one of the measures provided for under i to iii above at least to those pupils whose families so request and whose number is considered sufficient;***

470. Primary schools cannot offer bilingual education for the time being, but Lower Sorbian is taught in a number of schools as a regular subject and participation in Lower Sorbian primary school classes has increased over the past few years. Paragraph 1 of the Sorben/Wenden Schulverordnung of the *Land* Brandenburg establishes a right to receive teaching of Lower Sorbian in those municipalities which are officially qualified as a "municipalities in the traditional settlement area". At present, a thousand pupils at 23 primary schools are taught Lower Sorbian as a subject, added to the ordinary curriculum. However, problems may arise in those municipalities not officially qualified as "Sorbian municipalities" due to the fact that the statutory framework does not accord a subjective right to families to obtain teaching of their children in Lower Sorbian in these municipalities.

471. The Committee encourages the *Land* authorities to create clear legal entitlements to families in all places where there are sufficient numbers for their children to receive education in/of Lower Sorbian. This is especially important in those areas where Witaj projects are run at pre-school level, as the first Witaj children have now reached primary school.

472. The Committee acknowledges the efforts made to strengthen further the Lower Sorbian profile in primary schools and encourages the authorities to include teaching of Lower Sorbian as an integral part of the curriculum.

473. The Committee therefore considers that this undertaking has been only partially fulfilled.

The authorities are encouraged to ensure that pupils who have completed their pre-school education within the Witaj project are given the possibility to continue to have an education in Lower Sorbian.

- c i to make available secondary education in the relevant regional or minority languages; or
- ii to make available a substantial part of secondary education in the relevant regional or minority languages; or
- iii to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or
- iv to apply one of the measures provided for under i to iii above at least to those pupils who, or where appropriate whose families, so wish in a number considered sufficient;***

474. According to the initial periodical report, some five hundred pupils receive instruction in Lower Sorbian as a second language and the *Niedersorbisches Gymnasium* in Cottbus provides in-depth education in Lower Sorbian. Paragraph 1 of the Sorben/Wenden Schulverordnung of the *Land Brandenburg* establishes a right to receive teaching of Lower Sorbian in those municipalities which are officially qualified as a “municipalities in the traditional settlement area”. However, problems seem to arise in those municipalities not officially qualified as “Sorbian municipalities”.

475. The Committee encourages the *Land* authorities to create clear legal entitlements to families in all places where there are sufficient numbers for their children to receive education in/of Lower Sorbian, whether or not officially classified as Sorbian municipalities.

476. The Committee acknowledges the efforts made to further strengthen the Lower Sorbian profile in secondary schools and encourages the authorities to include teaching of Lower Sorbian in the ordinary curriculum in all cases.

477. Therefore, the Committee considers this undertaking partly fulfilled.

- e i to make available university and other higher education in regional or minority languages; or
- ii to provide facilities for the study of these languages as university and higher education subjects; or
- iii if, by reason of the role of the State in relation to higher education institutions, subparagraphs i and ii cannot be applied, to encourage and/or allow the provision of university or other forms of higher education in regional or minority languages or of facilities for the study of these languages as university or higher education subjects;***

478. The Committee very much welcomes the fact that the State of Brandenburg has enabled the Institute of Slavonic Studies of the University of Potsdam to set up a programme for the study of Lower Sorbian. However, the Committee has been informed of the decision of the *Land* to terminate the programme of research and teacher training in Lower Sorbian at the University of Potsdam. When this offer is terminated, there will not be any other offer of university or higher education in respect of Lower Sorbian. The Committee does not consider the undertaking fulfilled, since the Sorbian studies programme at Leipzig University does not secure an adequate level of university education in Lower Sorbian, particularly as far as the training of teachers is concerned.

f iii if the public authorities have no direct competence in the field of adult education, to favour and/or encourage the offering of such languages as subjects of adult and continuing education;

479. The offer of Sorbian in adult education has been developed, as there is an increasing demand for this kind of course. In 1991, 88 persons followed the courses offered by the Volkshochschule of Cottbus. They were 2.284 in 2000. The Committee considers this undertaking fulfilled.

g to make arrangements to ensure the teaching of the history and the culture which is reflected by the regional or minority language;

480. According to the Initial Report, in order to be able to take adequate account of the history and culture of the Sorbs at schools in the traditional settlement area of the Sorbian people, as well as at schools outside that area, teachers are offered courses regarding the history and culture of the Sorbs. In addition, the framework curricula of Brandenburg provide for the inclusion of the history and culture of the Sorbs in a number of subjects. The Committee considers this undertaking fulfilled.

h to provide the basic and further training of the teachers required to implement those of paragraphs a to g accepted by the Party;

481. In 1998, an education programme for secondary-school teachers was launched by Potsdam University, the objective being to revitalise the language and to secure the continuity of its role through the education system. Twenty teachers have been trained during the last two years. The Committee has been informed that this, the only programme designed to meet the need for Lower Sorbian teachers is being terminated.

482. There is a lack of trained teachers and different measures are now being considered. One would be the establishment of a continuous training (1 day per week) out of the normal school hours (the teachers would be relieved of other tasks). A six-month training programme has been launched and can be followed by any teacher, but it is difficult to find "volunteers". Knowledge of Lower Sorbian is not seen as an advantage or a criterion when teachers are recruited or made redundant.

483. The six-month training programme can only be followed if the municipality financially assumes the replacement of the teacher. This is always subject to negotiation; the city of Cottbus has already financed the training of several teachers. But these efforts may be lost due to the absence of a real policy for the promotion of Lower Sorbian. The Committee encourages the authorities to facilitate the participation of teachers in such training courses, for example by earmarking special funds.

484. The Committee has been informed that the employment office does not recognise a competence in Sorbian as a desirable qualification and does not finance unemployed teachers in following the six-month training programme. The Committee encourages the federal authorities to make appropriate provisions to ensure that attainment of a qualification in Sorbian becomes eligible for funding by the employment administration. Lower Sorbian should also be listed as a criterion for recruitment policy. This should also extend to the criteria used when making teachers redundant.

485. The Committee therefore considers that due to these obstacles to its implementation, this undertaking is only partly fulfilled.

The Committee encourages the authorities to ensure that appropriate facilities for teacher training are in place to meet the needs for education in Lower Sorbian.

- i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.***

486. According to the information gathered by the Committee, there is no supervisory body specifically entrusted with the task of monitoring the measures taken and the progress achieved in developing the teaching of Lower Sorbian, nor are there any public reports on the findings of such a body. The Committee therefore concludes that the obligation is not fulfilled.

The Committee encourages the authorities to establish a supervisory body designed to monitor the measures taken in developing education in Lower Sorbian and to draw up periodic reports.

Article 9 – Judicial authorities

- 1 The Parties undertake, in respect of those judicial districts in which the number of residents using the regional or minority languages justifies the measures specified below, according to the situation of each of these languages and on condition that the use of the facilities afforded by the present paragraph is not considered by the judge to hamper the proper administration of justice:***

- a in criminal proceedings:***

- ii to guarantee the accused the right to use his/her regional or minority language; and/or***
- iii to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language; and/or***

if necessary by the use of interpreters and translations involving no extra expense for the persons concerned;

487. These undertakings are rarely put into practice owing to implementation obstacles. In particular, there is a legal framework but the latter is seldom made use of in practice, owing also to the lack of a dictionary specialising in terms used within the judicial system. Furthermore, there is a lack of staff competent to use Lower Sorbian.

488. Although the use of Lower Sorbian is a legally secured right in court procedures there are too many obstacles to relying on Sorbian in reality. The speakers of Lower Sorbian are bilingual, they speak German to accelerate the procedures and to avoid being seen as “trouble-makers”. Judges are not encouraged to speak Lower Sorbian, its knowledge is not seen as an advantage. The problem is the lack of implementation or encouraging measures. The real status of the language (as a private-life language) itself has made its effective official use in court procedures very difficult. There are no special courses for civil servants, who are not even encouraged to attend the adult courses offered by the Volkshochschule, for instance.

489. The Committee considers that these undertakings are formally fulfilled.

- b in civil proceedings:***

- iii to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;***

c in proceedings before courts concerning administrative matters:

iii to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;

490. The codes of judicial procedures provide that legal documents shall be submitted in the original. If the court does not understand the language in which a given legal document is drafted, it may, at its complete discretion, order a translation to be produced (Section 142 (3) of the Code of Civil Procedure). On the basis of a general reference to the Code of Civil Procedure, the other codes of procedure contain the same rule. Documents and evidence drafted in Lower Sorbian are allowed. The costs incurred for translation become part of the litigation costs, the only exception being the social court, where payment is never required.

491. However, although the use of Lower Sorbian is a legally secured right in court procedures, there are too many obstacles to relying on Sorbian in reality. The speakers of Lower Sorbian are bilingual, they speak German to accelerate the procedures and to avoid being seen as “trouble-makers”. Judges are not encouraged to speak Lower Sorbian, its knowledge is not seen as an advantage. The problem is the lack of implementation or encouraging measures. The status of Lower Sorbian as a private-life language has made its effective official use in court procedures very difficult.

492. The Committee considers these undertakings formally fulfilled.

2 The Parties undertake:

a not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language;

493. The Committee has been informed that no provision of law excludes the validity of documents drawn up in Sorbian. The Committee therefore considers this undertaking fulfilled.

Article 10 – Administrative authorities and public services

1 Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:

a iv to ensure that users of regional or minority languages may submit oral or written applications in these languages; or

494. A clear legal basis secures the use of Lower Sorbian before the administration. In practice, however, there are many obstacles to this. The speakers of Lower Sorbian are bilingual, they speak German to accelerate the procedures and to avoid being seen as “trouble-makers”. Staff in public services are not encouraged to speak Lower Sorbian, its knowledge is not seen as an advantage. The existing legislative framework, in principle favourable to the use of Lower Sorbian in the courts and administration, is not operational because of the lack of implementation or encouraging measures. The lack of staff with a command of Lower Sorbian in those fields and the absence of practical measures encouraging the use of Lower Sorbian have contributed to a status quo in which Lower Sorbian is practically excluded from administrative life. The Committee therefore must conclude that the undertaking is formally fulfilled regarding written applications, but not fulfilled in practice regarding oral applications.

v to ensure that users of regional or minority languages may validly submit a document in these languages;

495. This obligation is included in paragraph 1.a and the Charter provides that it may be chosen as an alternative to the other options of Article 10 para. 1 (a) but not in addition to them. It is therefore redundant to the undertakings of Germany.

2 In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:

b the possibility for users of regional or minority languages to submit oral or written applications in these languages;

496. The statutory provision of Section 23 of the Administrative Procedure Act of the *Land* Brandenburg guarantees the right to submit oral and written applications in Lower Sorbian to regional and local administrations. However, there is a strong need to take positive measures likely to encourage the use of Lower Sorbian in administrative matters at the local and regional level. The Committee concludes that the undertaking is only formally fulfilled.

g the use or adoption, if necessary in conjunction with the name in the official language(s), of traditional and correct forms of place-names in regional or minority languages

497. Local and regional authorities allow the use of place names in Lower Sorbian. Municipalities which fall under the category of “municipality within the traditional settlement area” are obliged to use bilingual signs to identify places, streets, bridges, public buildings and institutions. However, the municipalities have the possibility to avoid being included in this category. Since the municipalities must bear the extra-costs of bilingual signs, municipalities are not encouraged to become a part of the Sorbian area as defined by section 3, para. 2 of the Sorben (Wenden)- Gesetz .

498. The Committee acknowledges the efforts made by the Brandenburg authorities to provide for bilingual signs and considers the undertaking fulfilled, but realizes that the implementation might be hampered by the obstacles mentioned. Therefore, the Committee encourages the authorities to take positive steps to facilitate the implementation of this provision.

3 With regard to public services provided by the administrative authorities or other persons acting on their behalf, the Parties undertake, within the territory in which regional or minority languages are used, in accordance with the situation of each language and as far as this is reasonably possible:

b to allow users of regional or minority languages to submit a request and receive a reply in these languages; or

499. The Committee has not received enough information to conclude that this undertaking is fulfilled.

c to allow users of regional or minority languages to submit a request in these languages.

500. This obligation is included in paragraph 3 (b) and the Charter provides that it may be chosen as an alternative to the other options of Article 10 para. 3 but not in addition to them. It is therefore redundant to the undertakings of Germany.

4 With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:

a translation or interpretation as may be required;

501. The Government refers to the measures taken to implement the undertaking under Article 10 para. 1 (a) (iv), which provide that the translation of the applications mentioned therein is taken care of by the authority concerned. The Committee considers this undertaking partly fulfilled and needs further information on how translation or interpretation is made available, where required, also in respect of the other undertakings accepted under Article 10 paras. 1, 2 and 3.

- c compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed in the territory in which that language is used.**

502. The *Land* Government and *Land* Administration have striven to meet any wishes expressed by *Land* public officials as regards their employment. The Committee has been assured that it has never occurred that the wish of a public official having a command of the Sorbian/Wendish language to be appointed in the traditional settlement area of the Sorbian people was not complied with. However, no pertinent *Land* legislation has been so far enacted. In any event, the information available to the Committee is not sufficient to conclude that this undertaking is fulfilled.

5 The Parties undertake to allow the use or adoption of family names in the regional or minority languages, at the request of those concerned.

503. The Committee has been informed that under German law persons may assume the minority-language version of their names by making a declaration before the Registrar. The Committee considers this undertaking fulfilled.

Article 11 – Media

1 The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

- b ii to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;**

504. There are frequent transmissions of radio programmes in Lower Sorbian on public service broadcasting. The Committee considers that a commendable effort is made in the public sector. However, taking into account the nature of the option chosen by the Government, the Committee does not have any information as to measures of encouragement for the broadcasting of radio programmes in Lower Sorbian by private stations. The Committee is therefore not in a position to conclude that this undertaking is fulfilled.

- c ii to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;**

505. Some television programmes are transmitted in Lower Sorbian on public service broadcasting. The Committee considers that a commendable effort is made in the public sector. However, taking into account the nature of the option chosen by the Government, the Committee does not have any information as to measures of encouragement for the broadcasting of television programmes in Lower Sorbian by private stations. The Committee is therefore not in a position to conclude that this undertaking is fulfilled.

- d to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;**

506. The Committee has been informed that there is production and distribution of videos, music and cassettes in Lower Sorbian with partial funding by public authorities (Foundation for the Sorbian People). The Committee considers this undertaking fulfilled.

- e i to encourage and/or facilitate the creation and/or maintenance of at least one newspaper in the regional or minority languages; or**

507. There are a number of newspapers published in Lower Sorbian which receive public funding. The Committee considers this undertaking fulfilled.

- 2** *The Parties undertake to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language, and not to oppose the retransmission of radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the freedom of expression and free circulation of information in the written press in a language used in identical or similar form to a regional or minority language. The exercise of the above-mentioned freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*

508. See para. 461 above. The Committee considers this undertaking fulfilled.

Article 12 – Cultural activities and facilities

- 1** *With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including inter alia the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:*
- a** *to encourage types of expression and initiative specific to regional or minority languages and foster the different means of access to works produced in these languages;*
 - b** *to foster the different means of access in other languages to works produced in regional or minority languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;*
 - c** *to foster access in regional or minority languages to works produced in other languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;*
 - d** *to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;*
 - e** *to promote measures to ensure that the bodies responsible for organising or supporting cultural activities have at their disposal staff who have a full command of the regional or minority language concerned, as well as of the language(s) of the rest of the population;*
 - f** *to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;*
 - g** *to encourage and/or facilitate the creation of a body or bodies responsible for collecting, keeping a copy of and presenting or publishing works produced in the regional or minority languages;*
 - h** *if necessary, to create and/or promote and finance translation and terminological research services, particularly with a view to maintaining and developing appropriate administrative, commercial, economic, social, technical or legal terminology in each regional or minority language.*

509. See para. 462 above. As far as Lower Sorbian in particular is concerned, it should also be mentioned that the Sorbian Institute operates a branch in Cottbus (Brandenburg), which deals specifically with Lower Sorbian. The Committee considers these obligations fulfilled.

2 *In respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage and/or provide appropriate cultural activities and facilities in accordance with the preceding paragraph.*

510. The Committee has not received sufficient information to be able to conclude that the present undertaking is fulfilled.

3 *The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.*

511. According to the information received by the Committee, the *Land* includes Sorbian in presenting its culture abroad. However, according to the information received by the Committee, the federal authorities, in pursuing their cultural policy abroad, do not make any special provision for Lower Sorbian. Thus the Committee considers this undertaking partly fulfilled.

Article 13 – Economic and social life

1 *With regard to economic and social activities, the Parties undertake, within the whole country:*

a *to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations;*

512. The Committee has not received any information pointing to the existence of legislation which prohibits or limits the use of the minority language and considers this obligation fulfilled.

c *to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;*

513. The Committee has not been informed of any policies designed to discourage the use of regional or minority languages in connection with economic or social activities, although it is well aware of the current debate on this issue. However, in the present conditions the Committee cannot conclude that this undertaking is fulfilled.

d *to facilitate and/or encourage the use of regional or minority languages by means other than those specified in the above sub-paragraphs.*

514. The Committee has not received sufficient information to conclude that this undertaking is fulfilled.

Chapter 3 Findings of the Committee

The Committee hereby presents its general findings on the application of the Charter in Germany.

A. The Committee compliments Germany on making a ratification which reflects the complex linguistic situation and the different levels of responsibility which exist in a federal state. The ratification has also taken into account the different situations of the languages covered and the different conditions in the various *Länder*. The German report deserves credit for its comprehensive presentation of how the undertakings have been dealt with. The Committee also commends the German authorities for the procedure chosen in the production of their report, especially the co-operation which took place with representatives of the regional or minority languages in the various *Länder* and at federal level.

B. The German ratification is ambitious in the sense that it paves the way for future positive developments in the protection and promotion of regional or minority languages in Germany. This is in full conformity with the spirit and the dynamic character of the Charter. The Committee sees this approach as evidence of a political commitment to the protection and the promotion of regional or minority languages in Germany and looks forward to learning of more concrete results of this commitment in the next periodical report.

The Committee commends the ambition which lies behind the German Government's decision to apply certain Part III undertakings to Part II languages. In the case of non-territorial languages, this is a positive way of giving concrete effect to Article 7 obligations. In the case of territorial languages, however, the Committee regards this approach as acceptable only if there is an underlying intention to progress to full Part III protection.

C. The Committee views positively the protection afforded to Romany under the Charter, which the German authorities have developed in co-operation with representatives of the Romany language. The Committee praises the efforts of co-operation deployed by the authorities in this area but notes that the speakers of Romany have different approaches as to the protection and promotion of their language by the authorities. In the Committee's opinion, the authorities should continue the dialogue with a view to improving co-operation and developing a policy in relation to this language.

D. The German authorities work on the assumption that the Charter, as an international treaty, contains provisions of a self-executing nature. But even if the national law provides that the provisions of the Charter are self-executing, many of the undertakings accepted under the Charter need specific implementing legal provisions in order to become operational in practice. Owing to the lack of such provisions, the Committee has not always been in a position to conclude that undertakings have been fulfilled. Furthermore, it is the opinion of the Committee that it is precisely the lack of specific legal provisions that in many cases hinders an effective implementation of the undertakings.

E. Education is the fundamental basis of the protection and promotion of regional or minority languages. In general terms, more precise planning seems to be needed in this area. Furthermore, bearing in mind the increased interest in and demand for regional or minority language education, the Committee has observed that there is a real need to develop basic and further teacher-training designed to address that demand on a more continuous and regular basis.

F. The position of the Danish language is generally satisfactory in pre-school, primary and secondary education.

G. Despite its recognition as a regional language in the ratification instrument, Low German is in practice still treated as a variant of German and not as a language in its own right. This leads to serious structural impediments to granting Low German the status in education which is required by the provisions chosen by Germany. Since the legal regulation of school education leaves it to the discretion of teachers and heads of schools to decide whether and to what degree Low German is taken up as a subject of teaching, education in Low German is largely available on an arbitrary basis leaving the decision to the educators and not to the parents or the children.

H. Education in the Upper Sorbian language is relatively well developed. However, the rationalisation programme in rural schools in the Upper Sorbian territory may be having an adverse effect on the maintenance of the language and the ability of children to benefit from education in Upper Sorbian. The authorities have shown sensitivity to the issue through a certain flexibility on the minimum number of pupils required to maintain a class or a school, but the Committee is concerned about the impact of such rationalisations, which tends to be greater on minority languages than on majority languages.

I. The Committee finds that Lower Sorbian, North Frisian and Sater Frisian are particularly endangered. There have been commendable individual initiatives in respect of these languages, such as the *Witaj* kindergartens in the case of Lower Sorbian. However, these have all been voluntary initiatives and there has been a lack of *Land* involvement.

These three languages are particularly endangered since there are few speakers of them in the younger generations. The problem is exacerbated by the fact that there is no planned and systematic approach in education. The presence of Lower Sorbian, North Frisian and Sater Frisian in pre-school, primary and secondary education depends on the available funding as well as on the motivation of the children, parents and teachers, as the courses are usually given outside regular school hours. Furthermore, it is not satisfactory that in practice there is often no continuity in the education in these endangered languages. The Committee has also found that there is no legal framework nor allocation of adequate resources to secure the implementation of many of the provisions chosen by Germany in this area and that there is a shortage or total absence of proper research and teacher training.

The Committee expresses its concern and stresses the need for immediate action in the field of education in respect of Lower Sorbian, North Frisian and Sater Frisian.

J. The Committee has noted that Germany has not chosen any obligations pertaining to primary and secondary school education in respect of Sater Frisian and Low German in Lower Saxony. However, bearing in mind the above-mentioned increased interest in and demand for regional and minority language education and the indispensable role of education in language preservation, the Committee has noted the need to strengthen or introduce primary and secondary education also in respect of Sater Frisian and Low German in Lower Saxony, and would in this respect refer to the obligations derived from Article 7 paragraph 1 (f).

K. With regard to the supervisory bodies referred to in Article 8 para. 1 (i), the Committee notes that in most cases no supervisory body exists that is specifically entrusted with the task of monitoring the measures taken and the progress achieved in developing the teaching of the language, whereas in other cases the monitoring tasks are not clearly defined. Nor are there any public reports on the findings of such a body. This is particularly important in relation to Lower Sorbian, North Frisian and Sater Frisian: taking account of their critical situation and the need for close monitoring, immediate action is needed to set up supervisory bodies entrusted with the said special monitoring responsibilities.

L. In the fields of justice and administration the Committee has found that there are social and practical obstacles which hamper the fulfilment of many of the undertakings under Articles 9 and 10 of the Charter. In the first place, the lack of specific legal provisions implementing the undertakings and the lack of adequate information make it difficult for the authorities to live up to the standards embodied in the various obligations. The Committee has also observed a lack of linguistic competence in regional or minority languages within the courts and the administrations concerned. Secondly, the users of the regional or minority languages are not made aware of the possibility to avail themselves of the rights to use their language. Even where they are sufficiently informed, since the users of the regional or minority languages also speak German they are often afraid of causing what may be considered unnecessary trouble for the courts or the authorities, especially in cases when they are in a "client" position. These problems have been dealt with in detail in the report.

M. As far as court proceedings are concerned, positive measures are needed in order to promote in particular the use of Sorbian, given the particular undertakings entered into under Article 9 of the Charter with regard to this language.

N. Financial support schemes and legal regulations which could be and are sometimes used for favouring the use of regional or minority languages in the media exist in Germany. In the Committee's view, the use of such measures to promote the presence of regional or minority languages in the media would not constitute undue interference with editorial freedom. The Committee considers that not enough use is made of these measures in respect of regional and minority languages.

O. The German authorities have undertaken to encourage and/or facilitate broadcasting of radio and television programmes in regional or minority languages on a regular basis in accordance with Article 11 para. 1 (b) (ii) of the Charter, which would entail measures to support regional or minority languages on private stations. However, the authorities have provided very little information with regard to the fulfilment of this undertaking.

In some cases information is provided concerning measures applied in relation to the use of regional or minority languages in public service broadcasting. In the light of the extent of these measures, the Committee wonders whether it would not be appropriate for the German authorities also to ratify Article 11 para. 1 (a) (iii).

P. The conditions for the use of the languages in the field of culture are generally favourable, and the initial German report reflects a number of activities. As for the pursuit of German culture policy abroad by the federal authorities, the regional or minority languages and the cultures they reflect have no representation.

Q. In the various *Länder* there are cultural funds of a general nature from which projects relating to regional or minority languages may receive support. However, there seem to be few such projects that receive support from these funds. Especially in the case of Frisian and Low German, which do not have established institutions, it is difficult to base the cultural activity on mere project funding.

The German government was invited to comment on the content of this report in accordance with Article 16.3 of the Charter. The comments received are attached in Appendix II.

On the basis of this report and its findings the Committee of Experts submitted its proposals to the Committee of Ministers for recommendations to be addressed to Germany. At the same time it emphasised the need for the German authorities to take into account, in addition to these general recommendations, the more detailed observations contained in the body of the report.

At its 820th meeting on 4 December 2002, the Committee of Ministers adopted its Recommendation addressed to Germany, which is set out in Part B of this document.

APPENDIX I: INSTRUMENT OF RATIFICATION



Germany

Declaration transmitted by a letter from the Deputy Permanent Representative of Germany, dated 23 January 1998, registered at the Secretariat General on 23 January 1998 - Or. Engl./Ger.

Declaration from the Federal Republic of Germany for the preparation of the ratification of the European Charter for Regional or Minority Languages

Minority languages within the meaning of the European Charter for Regional or Minority Languages in the Federal Republic of Germany shall be the Danish, Upper Sorbian, Lower Sorbian, North Frisian and Sater Frisian languages and the Romany language of the German Sinti and Roma; a regional language within the meaning of the Charter in the Federal Republic shall be the Low German language.

Pursuant to Article 3, paragraph 1, of the Charter, the Federal Republic of Germany shall specify the regional or minority languages to which the provisions selected pursuant to Article 2, paragraph 2, of the Charter shall apply upon the entry into force of the Charter in the Federal Republic of Germany:

Danish in the Danish language area in *Land* Schleswig-Holstein:

Article 8, paragraph 1 a iv; b iv; c iii/iv; d iii; e ii; f ii/iii; g; h; i; paragraph 2;
Article 9, paragraph 1 b iii; c iii; paragraph 2 a;
Article 10, paragraph 1 a v; paragraph 4 c; paragraph 5;
Article 11, paragraph 1 b ii; c ii; d; e ii; f ii; paragraph 2;
Article 12, paragraph 1 c; d; e; f; g; paragraph 2; paragraph 3;
Article 13, paragraph 1 a; c; d; paragraph 2 c;
Article 14 a; b.

Upper Sorbian in the Upper Sorbian language area in the Free State of Saxony:

Article 8, paragraph 1 a iii; b iv; c iv; d iv; e ii; f iii; g; h; i; paragraph 2;
Article 9 paragraph 1 a ii; a iii; b ii; b iii; c ii; c iii; d; paragraph 2 a;
Article 10, paragraph 1 a iv/v; paragraph 2 a; b; g; paragraph 3 b/c; paragraph 4 c; paragraph 5;
Article 11, paragraph 1 b ii; c ii; d; e i; f ii; paragraph 2;
Article 12, paragraph 1 a; b; c; d; e; f; g; h; paragraph 2, paragraph 3;
Article 13, paragraph 1 a; c; d; paragraph 2 c.

Lower Sorbian in the Lower Sorbian language area in *Land* Brandenburg:

Article 8, paragraph 1 a iv; b iv; c iv; e iii; f iii; g; h; i;
Article 9, paragraph 1 a ii; a iii; b iii; c iii; paragraph 2 a;
Article 10, paragraph 1 a iv/v; paragraph 2 b; g; paragraph 3 b/c; paragraph 4 a; c; paragraph 5;
Article 11, paragraph 1 b ii; c ii; d; e i; paragraph 2;
Article 12, paragraph 1 a; b; c; d; e; f; g; h; paragraph 2; paragraph 3;
Article 13, paragraph 1 a; c; d.

North Frisian in the North Frisian language area in *Land* Schleswig-Holstein:

Article 8, paragraph 1 a iii/iv; b iv; c iv; e ii; f iii; g; h; i; paragraph 2;
Article 9, paragraph 1 b iii; c iii; paragraph 2 a;
Article 10, paragraph 1 a v; paragraph 4 c; paragraph 5;
Article 11, paragraph 1 b ii; c ii; d; e ii; f ii; paragraph 2;
Article 12, paragraph 1 a; b; c; d; e; f; g; h; paragraph 2; paragraph 3;

Article 13, paragraph 1 a; c; d;
Article 14 a.

Sater Frisian in the Sater Frisian language area in *Land* Lower Saxony:

Article 8, paragraph 1 a iv; e ii; f iii; g; i;
Article 9, paragraph 1 b iii; c iii; paragraph 2 a;
Article 10, paragraph 1 a v; c; paragraph 2 a; b; c; d; e; f; paragraph 4 a; c; paragraph 5;
Article 11, paragraph 1 b ii; c ii; d; e ii; f ii; paragraph 2;
Article 12, paragraph 1 a; b; c; d; e; f; g; paragraph 2; paragraph 3;
Article 13, paragraph 1 a; c; d.

Low German in the *Länder* Free Hanseatic City of Bremen, Free and Hanseatic City of Hamburg, Mecklenburg-Western Pomerania, Lower Saxony and Schleswig-Holstein:

Obligations regarding Low German in the territory of the *Länder* Free Hanseatic City of Bremen, Free and Hanseatic City of Hamburg, Mecklenburg-Western Pomerania, Lower Saxony and Schleswig-Holstein:

Article 8, paragraph 1 a iv; e ii; g;
Article 9, paragraph 1 b iii; c iii; paragraph 2 a;
Article 10, paragraph 1 a v; c; paragraph 2 a; b; f;
Article 11, paragraph 1 b ii; c ii; d; e ii; f ii; paragraph 2;
Article 12, paragraph 1 a; d; f; paragraph 3;
Article 13, paragraph 1 a; c;

and additionally:

- in the Free Hanseatic City of Bremen:

Article 8, paragraph 1 b iii; c iii; f i; h;
Article 10, paragraph 2 c; d; e;
Article 11, paragraph 1 g;
Article 12, paragraph 1 b; c; e; g;
Article 13, paragraph 2 c;

- in the Free and Hanseatic City of Hamburg:

Article 8, paragraph 1 b iii; c iii; d iii; f ii; h; i;
Article 10, paragraph 2 e; paragraph 4 c;
Article 11, paragraph 1 g;
Article 12, paragraph 1 g;
Article 13, paragraph 1 d; paragraph 2 c;

- in *Land* Mecklenburg-Western Pomerania:

Article 8, paragraph 1 b iii; c iii; d iii; h; i;
Article 10, paragraph 4 c;
Article 12, paragraph 1 b; c; e; h;
Article 13, paragraph 1 d, paragraph 2 c;

- in *Land* Lower Saxony:

Article 8, paragraph 1 f iii; i;
Article 10, paragraph 2 c; d; e; paragraph 4 a; c;
Article 12, paragraph 1 b; c; e; g; paragraph 2;
Article 13, paragraph 1 d;
Article 14 a; b;

- in *Land* Schleswig-Holstein:

Article 8, paragraph 1 b iii; c iii; f iii; h; i; paragraph 2;
Article 10, paragraph 4 c;
Article 12, paragraph 1 b; c; g;
Article 13, paragraph 1 d; paragraph 2 c.

The separate specification of these provisions for the territories of each individual *Land* is in keeping with the

federal structure of the Federal Republic of Germany and takes into account the situation of each of these languages in the *Land* in question.

The Romany language of the German Sinti and Roma in the territory of the Federal Republic of Germany and Low German language in the territory of the *Länder* Brandenburg, North-Rhine/Westphalia and Saxony-Anhalt shall be protected pursuant to Part II of the Charter.

Period covered: 01/01/99 -

The preceding statement concerns Article(s): 10, 11, 12, 13, 14, 2, 3, 8, 9

Declaration transmitted by a letter from the Deputy Permanent Representative of Germany, dated 26 January 1998, registered at the Secretariat General on 26 January 1998 - Or. Engl./Ger.

Declaration from the Federal Republic of Germany for the fulfilment of the obligations of the European Charter for Regional or Minority Languages concerning Part II.

Part II of the European Charter for Regional or Minority Languages shall be applied to Romany, the minority language of the German Sinti and Roma in the territory of the Federal Republic of Germany, and to the regional language Low German in the territory of the *Länder* Brandenburg, North-Rhine/Westphalia and Saxony-Anhalt upon its entry into force in the Federal Republic of Germany in accordance with the declaration of the Federal Republic of Germany of 23 January 1998. The objectives and principles laid down in Article 7 of the Charter shall form the bases with regard to these languages. At the same time, German law and Germany's administrative practice thus meet individual requirements laid down in Part III of the Charter:

With regard to Romany:

for the territory of the Federal Republic of Germany:

Article 8, paragraph 1 f iii; g; h;
Article 9, paragraph 1 b iii; c iii; paragraph 2 a;
Article 10, paragraph 5;
Article 11, paragraph 1 d; e ii; f ii; g; paragraph 2;
Article 12, paragraph 1 g; paragraph 3;
Article 13, paragraph 1 a; c; d;
Article 14 a;

and additionally:

- in *Land* Baden-Württemberg:

Article 8, paragraph 1 a iv;
Article 10, paragraph 4 c;
Article 12, paragraph 1 a;

- in *Land* Berlin:

Article 8, paragraph 1 a i/ii; b i/ii/iii/iv; e i/ii/iii; i; paragraph 2;
Article 11, paragraph 1 b i/ii; c ii; e i/ii;
Article 12, paragraph 1 a; d; f;

- in the Free and Hanseatic City of Hamburg:

Article 8, paragraph 1 b iv; c iv;
Article 11, paragraph 1 b ii; c ii;
Article 12, paragraph 1 a; d; f;

- in *Land* Hesse:

Article 8, paragraph 1 a iii/iv; b iv; c iv; d iv; e iii; i; paragraph 2;
Article 11, paragraph 1 b ii; c ii; e i;
Article 12, paragraph 1 a; d; f; paragraph 2;

- in *Land* North-Rhine/Westphalia:

Article 8,paragraph 1 e iii; paragraph 2;

Article 12, paragraph 1 a; d; f; paragraph 2;

- in *Land* Lower Saxony:

Article 12, paragraph 1 a; d; f;

- in *Land* Rhineland-Palatinate:

Article 8, paragraph 1 a iv; e iii;

Article 11, paragraph 1 c ii;

Article 12, paragraph 1 a; d; f;

- in *Land* Schleswig-Holstein:

Article 10, paragraph 1 a v; paragraph 2 b; paragraph 4 c;

Article 11, paragraph 1 b ii; c ii;

Article 12, paragraph 1 a; d; f; paragraph 2.

With regard to Low German:

- in *Land* Brandenburg:

Article 8, paragraph 1 a iv; b iv; c iv; f iii; g;

Article 9, paragraph 2 a;

Article 10, paragraph 2 b; paragraph 3 c;

Article 11, paragraph 1 b ii; c ii; d; e ii; f ii; paragraph 2;

Article 12, paragraph 1 a; f; g;

- in *Land* North-Rhine/Westphalia:

Article 8, paragraph 1 e iii; g; h; paragraph 2;

Article 9, paragraph 1 b iii; c iii; paragraph 2 a;

Article 11, paragraph 1 d; paragraph 2;

Article 12, paragraph 1 a; d; e; f; g; h; paragraph 2;

Article 13, paragraph 1 a; c; d;

- in *Land* Saxony-Anhalt:

Article 8, paragraph 1 a iv; b iv; c iv; g; h;

Article 9, paragraph 2 a;

Article 11, paragraph 1 b ii; c ii; e ii; paragraph 2;

Article 12, paragraph 1 a; f; g; h.

The separate specification of these provisions for the territory of each individual *Land* is in keeping with the federal structure of the Federal Republic of Germany and takes into account the situation of each of these languages in the *Land* in question.

In accordance with the national distribution of competencies, the way in which the above-mentioned provisions of Part III of the Charter are implemented through legal regulations and Germany's administrative practice with due regard to the objectives and principles specified in Article 7 of the Charter shall be the responsibility of either the Federation or the competent *Land*. Details will be provided in the procedure for implementing the federal act with which the legislature consents to the Charter as laid down in the Memorandum to the Charter.

Period covered: 01/01/99 -

The preceding statement concerns Article(s): 10, 11, 12, 13, 14, 2, 3, 7, 8, 9

Declarations contained in a letter from the Permanent Representation of Germany, dated 16 September 1998, handed to the Secretary General at the time of deposit of the instrument of ratification, on 16 September 1998 – Or. Engl./Germ.

Minority languages within the meaning of the European Charter for Regional or Minority Languages in the Federal Republic of Germany shall be the Danish, Upper Sorbian, Lower Sorbian, North Frisian and Sater Frisian languages and the Romany language of the German Sinti and Roma; a regional language within the meaning of the Charter in the Federal Republic shall be the Low German language.

Pursuant to Article 3, paragraph 1, of the Charter, the Federal Republic of Germany specifies the regional or minority languages to which the provisions selected pursuant to Article 2, paragraph 2, of the Charter shall apply upon the entry into force of the Charter in the Federal Republic of Germany:

Danish in the Danish language area in *Land* Schleswig-Holstein:

Article 8, paragraph 1 a iv; b iv; c iii/iv; d iii; e ii; f ii/iii; g; h; i; paragraph 2;
Article 9, paragraph 1 b iii; c iii; paragraph 2 a;
Article 10, paragraph 1 a v; paragraph 4 c; paragraph 5;
Article 11, paragraph 1 b ii; c ii; d; e ii; f ii; paragraph 2;
Article 12, paragraph 1 c; d; e; f; g; paragraph 2; paragraph 3;
Article 13, paragraph 1 a; c; d; paragraph 2 c;
Article 14 a; b.

Upper Sorbian in the Upper Sorbian language area in the Free State of Saxony:

Article 8, paragraph 1 a iii; b iv; c iv; d iv; e ii; f iii; g; h; i; paragraph 2;
Article 9 paragraph 1 a ii; a iii; b ii; b iii; c ii; c iii; d; paragraph 2 a;
Article 10, paragraph 1 a iv/v; paragraph 2 a; b; g; paragraph 3 b/c; paragraph 4 c; paragraph 5;
Article 11, paragraph 1 b ii; c ii; d; e i; f ii; paragraph 2;
Article 12, paragraph 1 a; b; c; d; e; f; g; h; paragraph 2, paragraph 3;
Article 13, paragraph 1 a; c; d; paragraph 2 c.

Lower Sorbian in the Lower Sorbian language area in *Land* Brandenburg:

Article 8, paragraph 1 a iv; b iv; c iv, e iii; f iii; g; h; i;
Article 9, paragraph 1 a ii; a iii; b iii; c iii; paragraph 2 a;
Article 10, paragraph 1 a iv/v; paragraph 2 b; g; paragraph 3 b/c; paragraph 4 a; c; paragraph 5;
Article 11, paragraph 1 b ii; c ii; d; e i; paragraph 2;
Article 12, paragraph 1 a; b; c; d; e; f; g; h; paragraph 2; paragraph 3;
Article 13, paragraph 1 a; c; d.

North Frisian in the North Frisian language area in *Land* Schleswig-Holstein:

Article 8, paragraph 1 a iii/iv; b iv; c iv; e ii; f iii; g; h; i; paragraph 2;
Article 9, paragraph 1 b iii; c iii; paragraph 2 a;
Article 10, paragraph 1 a v; paragraph 4 c; paragraph 5;
Article 11, paragraph 1 b ii; c ii; d; e ii; f ii; paragraph 2;
Article 12, paragraph 1 a; b; c; d; e; f; g; h; paragraph 2; paragraph 3;
Article 13, paragraph 1 a; c; d;
Article 14 a.

Sater Frisian in the Sater Frisian language area in *Land* Lower Saxony:

Article 8, paragraph 1 a iv; e ii; f iii; g; i;
Article 9, paragraph 1 b iii; c iii; paragraph 2 a;
Article 10, paragraph 1 a v; c; paragraph 2 a; b; c; d; e; f; paragraph 4 a; c; paragraph 5;
Article 11, paragraph 1 b ii; c ii; d; e ii; f ii; paragraph 2;
Article 12, paragraph 1 a; b; c; d; e; f; g; paragraph 2; paragraph 3;
Article 13, paragraph 1 a; c; d.

Low German in the *Länder* Free Hanseatic City of Bremen, Free and Hanseatic City of Hamburg, Mecklenburg-Western Pomerania, Lower Saxony and Schleswig-Holstein:

Obligations regarding Low German in the territory of the *Länder* Free Hanseatic City of Bremen, Free and Hanseatic City of Hamburg, Mecklenburg-Western Pomerania, Lower Saxony and Schleswig-Holstein:

Article 8, paragraph 1 a iv; e ii; g;
Article 9, paragraph 1 b iii; c iii; paragraph 2 a;
Article 10, paragraph 1 a v; c; paragraph 2 a; b; f;
Article 11, paragraph 1 b ii; c ii; d; e ii; f ii; paragraph 2;
Article 12, paragraph 1 a; d; f; paragraph 3;
Article 13, paragraph 1 a; c;

and additionally:

- in the Free Hanseatic City of Bremen:

Article 8, paragraph 1 b iii; c iii; f i; h;
Article 10, paragraph 2 c; d; e;
Article 11, paragraph 1 g;
Article 12, paragraph 1 b; c; e; g;
Article 13, paragraph 2 c;

- in the Free and Hanseatic City of Hamburg:

Article 8, paragraph 1 b iii; c iii; d iii; f ii; h; i;
Article 10, paragraph 2 e; paragraph 4 c;
Article 11, paragraph 1 g;
Article 12, paragraph 1 g;
Article 13, paragraph 1 d; paragraph 2 c;

- in *Land* Mecklenburg-Western Pomerania:

Article 8, paragraph 1 b iii; c iii; d iii; h; i;
Article 10, paragraph 4 c;
Article 12, paragraph 1 b; c; e; h;
Article 13, paragraph 1 d, paragraph 2 c;

- in *Land* Lower Saxony:

Article 8, paragraph 1 f iii; i;
Article 10, paragraph 2 c; d; e; paragraph 4 a; c;
Article 12, paragraph 1 b; c; e; g; paragraph 2;
Article 13, paragraph 1 d;
Article 14 a; b;

- in *Land* Schleswig-Holstein:

Article 8, paragraph 1 b iii; c iii; f iii; h; i; paragraph 2;
Article 10, paragraph 4 c;
Article 12, paragraph 1 b; c; g;
Article 13, paragraph 1 d; paragraph 2 c.

The separate specification of these provisions for the territories of each individual *Land* is in keeping with the federal structure of the Federal Republic of Germany and takes into account the situation of each of these languages in the *Land* in question.

The Romany language of the German Sinti and Roma in the territory of the Federal Republic of Germany and Low German language in the territory of the *Länder* Brandenburg, North-Rhine/Westphalia and Saxony-Anhalt shall be protected pursuant to Part II of the Charter.

Part II of the European Charter for Regional or Minority Languages shall be applied to Romany, the minority language of the German Sinti and Roma in the territory of the Federal Republic of Germany, and to the regional language Low German in the territory of the *Länder* Brandenburg, North-Rhine/Westphalia and Saxony-Anhalt upon its entry into force in the Federal Republic of Germany in accordance with the declaration of the Federal Republic of Germany of 23 January 1998. The objectives and principles laid down in Article 7 of the Charter shall form the bases with regard to these languages. At the same time, German law and Germany's administrative practice thus meet individual requirements laid down in Part III of the Charter:

With regard to Romany

for the territory of the Federal Republic of Germany:

Article 8, paragraph 1 f iii; g; h;
Article 9, paragraph 1 b iii; c iii; paragraph 2 a;
Article 10, paragraph 5;
Article 11, paragraph 1 d; e ii; f ii; g; paragraph 2;
Article 12, paragraph 1 g; paragraph 3;
Article 13, paragraph 1 a; c; d;
Article 14 a;

and additionally:

- in *Land* Baden-Württemberg:

Article 8, paragraphs 1 a iv, 1 e iii;
Article 10, paragraph 4 c;
Article 12, paragraphs 1 a, 1 d; f; paragraph 2.

- in *Land* Berlin:

Article 8, paragraph 1 a i/ii; b i/ii/iii/iv; e i/ii/iii; i; paragraph 2;
Article 11, paragraph 1 b i/ii: c ii; e i/ii;
Article 12, paragraph 1 a; d; f;

- in the Free and Hanseatic City of Hamburg:

Article 8, paragraph 1 b iv; c iv;
Article 11, paragraph 1 b ii; c ii;
Article 12, paragraph 1 a; d; f;

- in *Land* Hesse:

Article 8, paragraph 1 a iii/iv; b iv; c iv; d iv; e iii; i; paragraph 2;
Article 11, paragraph 1 b ii; c ii; e i;
Article 12, paragraph 1 a; d; f; paragraph 2;

- in *Land* North-Rhine/Westphalia:

Article 8, paragraph 1 e iii; paragraph 2;
Article 12, paragraph 1 a; d; f; paragraph 2;

- in *Land* Lower Saxony:

Article 12, paragraph 1 a; d; f;

- in *Land* Rhineland-Palatinate:

Article 8, paragraph 1 a iv; e iii;
Article 11, paragraph 1 c ii;
Article 12, paragraph 1 a; d; f;

- in *Land* Schleswig-Holstein:

Article 10, paragraph 1 a v; paragraph 2 b; paragraph 4 c;
Article 11, paragraph 1 b ii; c ii;
Article 12, paragraph 1 a; d; f; paragraph 2.

With regard to Low German:

- in *Land* Brandenburg:

Article 8, paragraph 1 a iv; b iv; c iv; f iii; g;
Article 9, paragraph 2 a;
Article 10, paragraph 2 b; paragraph 3 c;
Article 11, paragraph 1 b ii; c ii; d; e ii; f ii; paragraph 2;
Article 12, paragraph 1 a; f; g;

- in *Land* North-Rhine/Westphalia:

Article 8, paragraph 1 e iii; g; h; paragraph 2;
Article 9, paragraph 1 b iii; c iii; paragraph 2 a;
Article 11, paragraph 1 d; paragraph 2;
Article 12, paragraph 1 a; d; e; f; g; h; paragraph 2;
Article 13, paragraph 1 a; c; d;

- in *Land* Saxony-Anhalt:

Article 8, paragraph 1 a iv; b iv; c iv; g; h;
Article 9, paragraph 2 a;
Article 11, paragraph 1 b ii; c ii; e ii; paragraph 2;
Article 12, paragraph 1 a; f; g; h.

The separate specification of these provisions for the territory of each individual *Land* is in keeping with the federal structure of the Federal Republic of Germany and takes into account the situation of each of these languages in the *Land* in question.

In accordance with the national distribution of competencies, the way in which the above-mentioned provisions of Part III of the Charter are implemented through legal regulations and Germany's administrative practice with due regard to the objectives and principles specified in Article 7 of the Charter shall be the responsibility of either the Federation or the competent *Land*. Details will be provided in the procedure for implementing the federal act with which the legislature consents to the Charter as laid down in the Memorandum to the Charter.

Period covered: 01/01/99 -

The preceding statement concerns Article(s): 10, 11, 12, 13, 14, 2, 3, 7, 8, 9

APPENDIX II : COMMENTS BY THE GERMAN AUTHORITIES



Comments

by the Federal Republic of Germany

on the Report of the Committee of Experts on the German State Report on the Application of the European Charter for Regional or Minority Languages in the Federal Republic of Germany

Federal Ministry of the Interior

October 2002

I. Preliminary Remarks

On 5 July 2002, the Committee of Experts set up under the European Charter for Regional or Minority Languages (hereinafter referred to as the "Charter") submitted a Report to the Council of Europe's Committee of Ministers on Germany's implementation of the Charter.

The Report was forwarded to Germany under cover of the letter by the Directorate of Co-operation for Local and Regional Democracy of 14 August 2002.

The Federal Republic of Germany values the activities of the Committee of Experts in the process of monitoring the implementation of the Charter and welcomes the efforts made by the Committee of Experts in assessing the achieved level of compliance with Germany's obligations arising from the Charter. Germany notes that the comments of the Committee of Experts show professional examination of the situation of regional and minority languages in Germany and that the Committee has in fact paid attention to important questions and problems.

Germany considers the fulfilment of the obligations under the Charter and the Committee's Report as a continued pan-European process aimed at the creation of international standards laying down the foundations for a legal regulation of relations within a community of citizens in a given State and thus providing for sustained protection of the existing regional or minority languages.

Germany's State Report on the implementation of the Charter, which serves as the basis of the monitoring mechanism, is based on the principle of transparency, and Germany considers it important to maintain an open and constructive dialogue with the bodies responsible for monitoring the implementation of the Charter, i.e. the Committee of Experts and the Committee of Ministers of the Council of Europe.

These comments by the Federal Republic of Germany were drawn up by the Federal Ministry of the Interior as the lead agency and were co-ordinated with the Governments of the Federal *Länder* which, because of the federal structure of the Federal Republic of Germany, are to a large extent responsible for the Charter's implementation.

In view of the volume of the Committee's monitoring report, the necessary translation work and the required co-ordination with the *Länder*, and the planned involvement of the respective language groups, the Federal Republic of Germany is not in a position, within the tightly set time limit, i.e. by 14 October 2002, to submit in-depth comments on the Report of the Committee of Experts, which would provide adequate answers to the issues raised and would do justice to the detailed matters brought up in the monitoring report. The Federal Republic of Germany will, in co-ordination with all bodies and groups concerned, examine the claimed deficits as regards the Charter's application, and reserves the right to elaborate, in the next State Report to be submitted in the course of the year 2003, on the findings of this examination and, where relevant, on any supplementary measures that may have been introduced in the meantime. The additional information on the factual situation, as requested by the Committee of Experts, will also be provided in the forthcoming State Report. The language groups will again be involved in the drafting of that Report. Given the little time available, as stated above, such involvement has not been possible as regards the present comments.

Germany will publish the Report of the Committee of Experts along with the present comments.

Against the background of current events, the Federal Republic of Germany wishes to point out that, due to the course of the Elbe River, the national flood disaster in Germany in August this year has, in particular, struck those *Länder* that cover the settlement areas of the majority of the members of language groups, and that the damage caused by the disastrous flooding, the extent of which is still incalculable at this time, will in the years to come have a strong and lasting impact on the use and appropriation of public funds.

In view of the aforesaid and bearing in mind the generally positive nature of the findings in the Committee's Report on Germany, the Federal Republic of Germany makes the following preliminary comments:

II. Regarding the relationship between the Charter and the Framework Convention

Germany – like an encouragingly large number of other members of the Council of Europe – is among the countries that have ratified the Framework Convention for the Protection of National Minorities; but it also belongs to the – regrettably fewer – countries that have ratified the European Charter for Regional or Minority Languages. In Germany, the Framework Convention is applied to the national minorities of the Danes, the Frisians, the Sorbs and the German Sinti and Roma. In German legal practice – both at government agencies and among national minorities – both Conventions are perceived as legal instruments that are used first and foremost to protect national minorities and their languages. As both instruments were drawn up by the Council of Europe and both were ratified by Germany within a short space of time of each other and as both pursue comparable objectives regarding the languages of national minorities, the two Conventions together represent the authoritative legal instruments for the benefit of national minorities and their languages. This implies that the two Conventions will be interpreted and applied concordantly.

On account of the fact that the two Conventions have been formulated according to different legal principles, difficulties are arising in respect of the concordant application of the two instruments and therefore are also encountered by the competent committees of the Council of Europe in examining whether they are being properly applied. Whereas all the Articles of the Framework Convention call for unqualified and uniform application, the Charter, designed as a so-called "menu convention", in its Part III leaves it to the discretion of the ratifying States to decide what obligations they undertake, as regards the range, scope and depth of these obligations as well as their territorial application and their scope of application with respect to the respective language groups. While Article 11 of the Charter, for instance, allows measures to be taken in respect of programmes broadcast on TV and/or on the radio in the respective minority or regional language, it gives the option to broadcast them as a full programme or as occasional programmes in that language; last but not least, the various options are expressed in the verbs used which are "*to ensure*", "*to facilitate*", "*to make adequate provision*" and "*to encourage*".

Both Conventions of the Council of Europe have become part of the German legal system, both as regards the personal scope of application as designated in the respective ratification document deposited with the Council of Europe, and in relation to the obligations undertaken under Part III of the Charter for Regional or Minority Languages with specific reference to language groups and regions.

The identical objectives pursued by both Conventions regarding the languages of national minorities and the authorship of the Council of Europe in both cases explain why the two instruments in question are interpreted and applied concordantly in Germany. This can also be of significance in evaluating whether the respective competent legislative or administrative bodies consider themselves to have met the obligations ensuing from the Conventions.

Germany suggests that the DH-MIN (Committee of Experts on Issues relating to the Protection of National Minorities), a body set up to deal with issues of minority law, which regrettably has not been convened in the past few years, should discuss this matter in depth; it would be appropriate and expedient to have the Committee of Experts on the Regional/ Minority Language Charter and the Advisory Committee on the Framework Convention take part in these discussions.

III. Preliminary Comments on the "Findings and Proposals for Recommendations" of the Committee of Experts under Chapter III

1. Under Section 3.1, *Lit. B*, the voluntary application, by the Federal Republic of Germany, of certain Part III obligations to Part II languages is, without any detailed explanations being given, seen by the Committee as a positive approach in the case of non-territorial languages, but is considered acceptable in the case of territorial languages only if there is an underlying intention to progress to full protection under Part III.

In its Declaration of 26 January 1998, the Federal Republic of Germany notified the Romany language - so far in all of the *Länder* - and the Low German language - in some of the *Länder* - for protection under Part II and, in addition, listed those Part III provisions which are met by the existing administrative practice. This helped to specify the basis for, and facilitate, monitoring of the implementation measures under Part II. Thus, this listing only serves to clarify the scope of protection afforded under Part II, and does not imply any declaration of intent as regards the expansion of the scope of Part III protection to these languages in the entire respective speech area. The aforementioned Declaration was accepted by the Contracting Parties without any objection. Apart from the distinction made in this context between territorial and non-territorial languages - which, at least for Germany, is somewhat hard to understand - the Federal Republic of Germany does not share the Committee's view that a declaration to this effect would be acceptable only if the aim is to provide progressively for full Part III protection of the given language. Neither the Declaration by the Federal Republic of Germany nor the provisions or the overall systematics of the Charter can provide a rationale for the Committee's view.

2. Under Section 3.1, *Litt. D and L*, the Committee of Experts observes that the lack of specific legal provisions hinders fulfilment of the obligations entered into, especially those under Articles 9 and 10 ("Justice" and "Administration"), and therefore, under para. 1 of its "Proposals for Recommendations", the Committee suggests that specific legal provisions, where these are still lacking, be adopted in order to implement the accepted undertakings.

In the opinion of the Federal Republic of Germany, the respective national law is the authoritative reference when answering the question as to the extent and the effects of direct national application of the accepted undertakings. In this respect, the Federal Republic of Germany once more points out that the Regional/Minority Language Charter, under the Act ratifying it, ranks in Germany as a federal law which takes precedence over subordinate law - including *Land* laws - and, as a matter of principle, is to be applied as the more specific law overriding other federal laws to the extent that the respective provisions of the Charter are by themselves self-executing. Thus, the pertinent accepted obligations under the Charter are directly binding upon the judiciary and the administration and must be complied with in administrative action. Accordingly, the legality of any specific administrative action must be verified on the basis of the standards constituted by these obligations.

To give an example of the direct applicability of the provisions, reference is made to the closing of a Sorbian class in Crostwitz in the Free State of Saxony as mentioned in para. 431 of the Report of the Committee of Experts. By a Decision of 16 March 2001, the Ministry of Culture of the Free State of Saxony had, on account of the lack of pupils registered for that class, revoked the participation of the Free State of Saxony in the maintenance of the 5th-grade class of the Sorbian secondary technical school in Crostwitz for the 2001/2002 school year which started on 10 August 2001. The reason given by the Ministry for this measure was that, under the Schools Act and the School Regulations, in view of ensuring the required differentiation as regards the relevant educational offers and on account of the resources required for the purpose, at least two classes per year-group must be established at a given school (in order to avoid "mini" age-classes). On this basis, a class must as a rule comprise 25 pupils; as a minimum, however, it must consist of 20 pupils. For the 2001/2002 school year, only a total of 17 pupils had been registered for the 5th-grade class, instead of the 40 registrations required per age-class at *Mittelschulen* (secondary technical schools).

Crostwitz Municipality has taken legal action against that Decision. The Dresden Administrative Court considered the revocation of the participation in the age-class by the Ministry of Culture to be lawful since continuation of the school was in contradiction to the Schools Act. For its decision, the Court also thoroughly weighed the functioning of the public educational system against the particular need for protection of the national minority of the Sorbs. In particular, the Court also examined the extent to which the administrative authorities comply with the provision of Article 8, para. 1 (c) (iv), of the Regional/Minority Language Charter, which applies in the Free State of Saxony; in the last analysis, however, the Court did not establish any violation of the Charter.

In particular, the obligations undertaken under Articles 9 and 10 (e.g. Article 9, para. 1 (b) (iii) - allowing documents and evidence to be produced in the regional or minority languages - or Article 10, para. 3 (c) - allowing requests to be submitted in the regional or minority language) are self-executing provisions which must be complied with by the judiciary and the administration in their action and which establish a definite legal framework. The Federal Republic of Germany takes the view that further legal regulations would not provide any additional legal advantages regarding the implementation of the relevant provisions, but instead, for the major part, would only create redundant rules of law. On this basis, the Federal Republic of Germany sees only very little scope, if any, for the implementation of the proposal submitted by the Committee of Experts in para. 1 to the Committee of Ministers for a recommendation regarding adoption of legal provisions in Germany ("where these are lacking").

Thus, the focus of the process of the Charter's implementation in Germany is not on legal considerations, but for the major part on practical issues concerning the actual implementation or invocation of the relevant undertakings - a subject brought up by the Committee of Experts itself in para. 5 of its "Proposals for Recommendations", i.e. "establish a structural policy for making it practically possible to use regional or minority languages in dealings with the administration and, where relevant, in the courts". The Federal Republic of Germany will continue to accord high priority to this implementation process.

IV. Acceptance of additional obligations by the Federal Republic of Germany

With the Second Act of 18 September 2002 on the European Charter for Regional or Minority Languages, which entered into force on 19 September 2002, Germany expanded the scope of protection provided under the Charter.

With the acceptance of another four undertakings for the territory of the *Land* of Hesse as regards the Romany language of the German Sinti and Roma, a total of 35 detailed obligations under the Charter are now guaranteed for this language as well, and the requirement for its internationally binding notification to the Council of Europe for protection under Part III of the Charter is met. The obligations newly entered into are:

- a) use of the Romany language in the assemblies of regional authorities (Article 10, para. 2, *Lit. e*);
- b) use of the Romany language in the assemblies of local authorities (Article 10, para. 2, *Lit. f*);
- c) allowing the submission of requests in the Romany language to public service providers (Article 10, para. 3, *Lit. c*); and
- d) taking account of requests from public service employees having the required linguistic competence to be appointed in the territory in which that language is used (Article 10, para. 4, *Lit. c*).

For Frisian, the additional obligation under Article 10, para. 2 (g), is accepted for the territories of the *Länder* of Schleswig-Holstein and Lower Saxony, respectively, i.e. to allow the use of place names also in the minority language (German/North Frisian or German/Sater Frisian, respectively), which may be an option, in particular, as regards bilingual place-name signs to be put up in Nordfriesland and/or in Saterland *Gemeinde*. Frisian is already afforded protection under Part III of the Charter.



European Charter for Regional or Minority Languages

B. Recommendation of the Committee of Ministers of the Council of Europe on the application of the Charter by Germany

(Adopted by the Committee of Ministers on 4 December 2002
at the 820th meeting of the Ministers' Deputies)

COUNCIL OF EUROPE
COMMITTEE OF MINISTERS

Recommendation RecChL(2002) 1
of the Committee of Ministers
on the application of the European Charter for Regional or Minority Languages by Germany

*(Adopted by the Committee of Ministers on 4 December 2002
at the 820th meeting of the Ministers' Deputies)*

The Committee of Ministers,

In accordance with Article 16 of the European Charter for Regional or Minority Languages;

Having regard to the instrument of ratification submitted by Germany on 16 September 1998;

Having taken note of the evaluation made by the Committee of Experts on the Charter with respect to the application of the Charter by Germany;

Having taken note of the comments made by the German authorities on the contents of the Committee of Experts' report;

Bearing in mind that this evaluation is based on information submitted by Germany in its initial periodical report, supplementary information given by the German authorities, information submitted by bodies and associations legally established in Germany and on the information obtained by the Committee of Experts during its "on-the-spot" visit,

Recommends that the German authorities take account of all the observations of the Committee of Experts and, as a matter of priority:

1. adopt specific legal provisions, where these are still lacking, in order to implement the undertakings which Germany has entered into under the Charter;
2. establish specific planning and monitoring mechanisms and ensure adequate resource allocation in the field of education ;
3. take urgent action to strengthen education in North Frisian, Sater Frisian and Lower Sorbian, whose survival is particularly endangered, and in particular ensure continuity in educational provision in these languages throughout the school system ;
4. improve basic and further teacher training for all regional and minority languages;
5. establish a structural policy for making it practically possible to use regional or minority languages in dealings with the administration and, where relevant, in the courts;
6. make the speakers of the regional or minority languages more aware that they have the possibility to avail themselves of the right to use their language before administrative and, where relevant, judicial authorities;
7. take a more active approach towards promoting the presence of the regional or minority languages in the media.